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# **NORTH CAROLINA REGISTER**

**VOLUME 11**

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Environment, Health, and Natural Resources

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# **NORTH CAROLINA REGISTER**



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**NORTH CAROLINA REGISTER**  
*Publication Schedule*  
*(October 1996 - July 1997)*

FILING DEADLINES		NOTICE OF RULE-MAKING PROCEEDINGS		NOTICE OF TEXT (either column A or column B)			
volume and issue number	issue date	last day for filing	end of comment period	A. non-substantial economic impact		B. substantial economic impact	
				earliest register issue for publication of text	earliest date for public hearing	deadline to submit to RRC for review at next RRC meeting	first legislative day of the next regular session
11:13	10/01/96	09/10/96	12/02/96	12/16/96	10/16/96	10/31/96	01/30/97
11:14	10/15/96	09/24/96	12/16/96	01/02/97	10/30/96	11/14/96	11/20/96
11:15	11/01/96	10/11/96	12/31/96	01/02/97	11/18/96	12/02/96	05/10/98
11:16	11/15/96	10/24/96	01/14/97	01/15/97	12/02/96	12/16/96	12/20/96
11:17	12/02/96	11/06/96	01/31/97	02/03/97	12/17/96	01/02/97	01/21/97
11:18	12/16/96	11/21/96	02/14/97	03/03/97	12/31/96	01/15/97	01/21/97
11:19	01/02/97	12/06/96	03/03/97	03/14/97	01/17/97	02/03/97	02/20/97
11:20	01/15/97	12/19/96	03/17/97	04/01/97	01/30/97	02/14/97	02/20/97
11:21	02/03/97	01/10/97	04/04/97	04/15/97	02/18/97	03/05/97	03/20/97
11:22	02/14/97	01/24/97	04/15/97	05/01/97	03/03/97	03/17/97	04/21/97
11:23	03/03/97	02/10/97	05/02/97	05/15/97	03/18/97	04/02/97	04/21/97
11:24	03/14/97	02/21/97	05/13/97	05/15/97	03/31/97	04/14/97	04/21/97
12:01	04/01/97	03/10/97	06/02/97	06/16/97	04/16/97	05/01/97	05/10/98
12:02	04/15/97	03/24/97	06/16/97	07/01/97	04/30/97	05/15/97	05/20/97
12:03	05/01/97	04/10/97	06/30/97	07/01/97	05/16/97	06/02/97	06/20/97
12:04	05/15/97	04/24/97	07/14/97	07/15/97	05/30/97	06/16/97	06/20/97
12:05	06/02/97	05/09/97	08/01/97	08/15/97	06/17/97	07/02/97	07/21/97
12:06	06/16/97	05/23/97	08/15/97	09/02/97	07/01/97	07/16/97	07/21/97
12:07	07/01/97	06/10/97	09/02/97	09/15/97	07/16/97	07/31/97	08/20/97
12:08	07/15/97	06/23/97	09/15/97	10/01/97	07/30/97	08/14/97	08/20/97

## EXPLANATION OF THE PUBLICATION SCHEDULE

This Publication Schedule is prepared by the Office of Administrative Hearings as a public service and the computation of time periods are not to be deemed binding or controlling. Time is computed according to 26 NCAC 2B .0103 and the Rules of Civil Procedure, Rule 6.

GENERAL	FILING DEADLINES	NOTICE OF RULE-MAKING PROCEEDINGS	NOTICE OF TEXT
	<p>The North Carolina Register shall be published twice a month and contains the following information submitted for publication by a state agency:</p> <ul style="list-style-type: none"><li>(1) temporary rules;</li><li>(2) notices of rule-making proceedings;</li><li>(3) text of proposed rules;</li><li>(4) text of permanent rules approved by the Rules Review Commission;</li><li>(5) notices of receipt of a petition for municipal incorporation, as required by G.S. 120-165;</li><li>(6) Executive Orders of the Governor;</li><li>(7) final decision letters from the U.S. Attorney General concerning changes in laws affecting voting in a jurisdiction subject of Section 5 of the Voting Rights Act of 1965, as required by G.S. 120-30.9H;</li><li>(8) orders of the Tax Review Board issued under G.S. 105-241.2; and</li><li>(9) other information the Codifier of Rules determines to be helpful to the public.</li></ul>	<p><b>ISSUE DATE:</b> The Register is published on the first and fifteen of each month if the first or fifteenth of the month is not a Saturday, Sunday, or State holiday for employees mandated by the State Personnel Commission. If the first or fifteenth of any month is a Saturday, Sunday, or a holiday for State employees, the North Carolina Register issue for that day will be published on the day of that month closest to (either before or after) the first or fifteenth respectively that is not a Saturday, Sunday, or holiday for State employees.</p> <p><b>END OF COMMENT PERIOD TO A NOTICE OF RULE-MAKING PROCEEDINGS:</b> This date is 60 days from the issue date. An agency shall accept comments on the notice of rule-making proceeding until the text of the proposed rules is published, and the text of the proposed rule shall not be published until at least 60 days after the notice of rule-making proceedings was published.</p> <p><b>EARLIEST REGISTER ISSUE FOR PUBLICATION OF TEXT:</b> The date of the next issue following the end of the comment period.</p> <p><b>LAST DAY FOR FILING:</b> The last day for filing for any issue is 15 days before the issue date excluding Saturdays, Sundays, and holidays for State employees.</p>	<p><b>EARLIEST DATE FOR PUBLIC HEARING:</b> The hearing date shall be at least 15 days after the date a notice of the hearing is published.</p> <p><b>END OF REQUIRED COMMENT PERIOD (1) RULE WITH NON-SUBSTANTIAL ECONOMIC IMPACT:</b> An agency shall accept comments on the text of a proposed rule for at least 30 days after the text is published or until the date of any public hearings held on the proposed rule, whichever is longer.</p> <p><b>(2) RULE WITH SUBSTANTIAL ECONOMIC IMPACT:</b> An agency shall accept comments on the text of a proposed rule published in the Register and that has a substantial economic impact requiring a fiscal note under G.S. 150B-21.4(b) for at least 60 days after publication or until the date of any public hearing held on the rule, whichever is longer.</p> <p><b>DEADLINE TO SUBMIT TO THE RULES REVIEW COMMISSION:</b> The Commission shall review a rule submitted to it on or before the twentieth of a month by the last day of the next month.</p> <p><b>FIRST LEGISLATIVE DAY OF THE NEXT REGULAR SESSION OF THE GENERAL ASSEMBLY:</b> This date is the first legislative day of the next regular session of the General Assembly following approval of the rule by the Rules Review Commission. See G.S. 150B-21.3, Effective date of rules.</p> <p><b>COMPUTING TIME:</b> In computing time in the schedule, the day of publication of the North Carolina Register is not included. The last day of the period so computed is included, unless it is a Saturday, Sunday, or State holiday, in which event the period runs until the preceding day which is not a Saturday, Sunday, or State holiday.</p>

**EXECUTIVE ORDER NO. 102  
AMENDING E.O. NO. 99 CONCERNING  
EMERGENCY RELIEF FOR DAMAGE  
CAUSED BY HURRICANE FRAN**

WHEREAS, Executive Order No. 99 was issued by me to provide emergency relief for damage caused by Hurricane Fran by waiving, certain size and weight restrictions for certain vehicles; and

WHEREAS, Executive Order No. 99 by its terms will expire on October 4, 1996; and

WHEREAS, I have determined that relief and recovery from damage caused by Hurricane Fran and the resulting need for the provisions of Executive Order No. 99 will continue beyond October 4, 1996.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and laws of this State, **IT IS ORDERED** that the provisions of Executive Order No. 99 remain in force until December 1, 1996.

Done in the Capital City of Raleigh, North Carolina this 2nd day of October, 1996.

**EXECUTIVE ORDER NO. 103  
AMENDING E.O. NO. 99 AND E.O. NO. 102  
CONCERNING EMERGENCY RELIEF FOR  
DAMAGE CAUSED BY HURRICANE FRAN**

By the authority vested in me as Governor by the laws and Constitution of North Carolina, **IT IS ORDERED**:

Section 1 of Executive Order No. 99 is hereby amended to read:

**Section 1.** The Division of Motor Vehicles shall waive size and weight restrictions and penalties therefor arising under N.C.G.S. 20-88, 20-96, and 20-118 for vehicles transporting food, equipment, and supplies, including necessary utility vehicles along our highways to North Carolina's hurricane-stricken counties, and vehicles transporting logs and residual products including bark and chips resulting from the salvage of hurricane damaged timber.

**Section 3.** of Executive Order No. 99 is hereby amended by adding subsection (D) to read:

(D) Trucks transporting logs or residuals under these provisions shall be required to display appropriate identification of such on the driver's side door or windshield and to obtain a written permit from the local state Division of Forest Resources office.

Executive Order No. 102 is hereby amended by adding a new sentence to the fourth paragraph to read:

The provisions of Executive Order No. 99 which apply to vehicles transporting logs and residual products shall remain in force until April 1, 1997.

This Executive Order shall be effective immediately.

Done in the Capital City of Raleigh, North Carolina this day of 1996.

**EXECUTIVE ORDER NO. 104  
CREATING THE NORTH CAROLINA DISASTER  
RECOVERY TASK FORCE, CENTER,  
AND ACTION TEAM**

WHEREAS, the State of North Carolina suffered extensive damage to its human and physical resources as a result of various natural disasters beginning with the approach and landfall of Hurricane Bertha and continuing with Hurricane Fran and other storms; and,

WHEREAS, the estimates of damage sustained by North Carolina's citizens and their communities far exceed the physical and social costs of any previous natural disasters; and,

WHEREAS, North Carolina is truly grateful for the outpouring of personal and financial assistance from throughout the nation which has assisted with the first phase of recovery; and,

WHEREAS, emergency personnel throughout the state have performed extraordinarily to provide the initial response to this series of disasters; and,

WHEREAS, all fourteen members of North Carolina's Congressional delegation joined with local and state officials to successfully secure critically needed additional resources for our state; and,

WHEREAS, all North Carolinians now must come together to repair, re-build, and plan for our state's long-term recovery and to make North Carolina even better and stronger than before; and,

WHEREAS, such long-term recovery exceeds the capacity of any existing single agency or office to manage with the speed and efficiency the situation demands; and,

WHEREAS, the coordination of the efforts of everyone involved in such recovery activities is crucial to making the best use of precious resources.

NOW, THEREFORE, by the power vested in me as Governor by the laws and Constitution of the State of North Carolina, **IT IS ORDERED**:

**Section 1. The North Carolina Disaster Recovery Task**

Force

a. Establishment. There is hereby established the North Carolina Disaster Recovery Task Force.

b. Membership. The Task Force shall be comprised of the following members:

1. The Lieutenant Governor, who shall be Chairman;
2. The Secretary of the Department of Crime Control and Public Safety, who shall be Vice-Chairman;
3. The State Treasurer;
4. The Commissioner of Insurance;
5. The Commissioner of Agriculture;
6. The Superintendent of Public Instruction;
7. The North Carolina Attorney General;
8. The President of the University of North Carolina General Administration;
9. The President of the North Carolina Community College System;
10. The Secretary of the Department of Transportation;
11. The Secretary of the Department of Human Resources;
12. The Secretary of the Department of Environment, Health and Natural Resources;
13. The Secretary of the Department of Commerce;
14. The Secretary of the Department of Correction;
15. The Secretary of the Department of Revenue;
16. The Secretary of the Department of Administration;
17. The Secretary of the Department of Cultural Resources;
18. The President of the North Carolina League of Municipalities;
19. The President of the North Carolina Association of County Commissioners;
20. The State Budget Officer;
21. The Governor's Senior Policy Advisor;
22. The Governor's Senior Advisor; and
23. The Director of the North Carolina Disaster Recovery Center.

Each member of the Task Force may select one alternate from his or her immediate staff (including division directors) to represent the member on the Task Force.

c. Responsibilities. The Task Force shall prepare a comprehensive report with recommended actions to ensure North Carolina's long-term recovery from the natural disasters described herein. The report shall be submitted to the Governor by November 30, 1996, and shall provide direction to the North Carolina Disaster Recovery Action Team. In preparing this report, the Task Force shall consider the following:

1. How best to determine the needs and problems resulting from the natural disasters and to establish the priorities for attention and investment among the identified needs and problems;

2. A means by which the costs of satisfying needs and remediating problems can be assessed;
3. A means by which appropriate and available funding sources can be identified to enable North Carolina to rebound to a status exceeding its previous level;
4. How to coordinate with agencies and organizations at all levels to help match sources and uses of funds thereby ensuring the best use of available resources for recovery efforts;
5. How to develop, in cooperation with local and regional agencies, effective strategies to mitigate the impact of future natural hazards and disasters; and
6. An effective way to monitor the recovery effort and thereby provide a means for ongoing assessment of disaster recovery efforts.

d. Meeting. The Task Force shall meet as necessary upon the call of the Chairman, the Vice-Chairman, or the Director of the Disaster Recovery Center.

Section 2. The North Carolina Disaster Recovery Center.

a. Establishment. There is hereby created, within the Governor's Office, the North Carolina Disaster Recovery Center.

b. Responsibilities. The Disaster Recovery Center shall provide the day-to-day coordination of all activities identified in this Executive Order, all activities related to the working and actions of the Task Force and the Disaster Recovery Action Team, and any other related responsibilities as determined by the Governor. The Center shall operate under a Center Director who shall report directly to the Governor and function as a senior staff member. The Center Director shall coordinate closely with the Governor's Senior Advisor and shall have the support (financial and staffing) of all state agencies in carrying out these responsibilities.

Section 3. The North Carolina Disaster Recovery Action Team Establishment.

a. Establishment. There is hereby established the North Carolina Disaster Recovery Action Team.

b. Membership. The Center Director, in consultation with the Director of the Governor's Washington Office, Task Force members and any other agencies or individuals he deems appropriate, shall select the Action Team. In addition to members selected by the Center Director, the Action Team shall include the following:

1. The Chairman of the Disaster Recovery Task Force;
2. The Vice-Chairman of the Disaster Recovery Task Force;
3. One representative of the Governors' Policy Office; and,
4. One representative of the Office of State Planning.

c. Responsibilities. The Action Team shall assist the Center Director in implementing the recommendations contained within the Task Force's November 1996 Report and in carrying out any other disaster recovery actions as instructed by the Governor.

Section 4. Cooperation with Federal Officials and the North Carolina Legislative Branch. The Task Force, Center, and Action Team shall work closely with federal agencies, the State's Congressional delegation, and the North Carolina General Assembly to ensure a coordinated and cooperative approach to disaster relief and recovery. Pursuant to this, information related to disaster recovery efforts shall be readily available to members of North Carolina's Legislature

and Congressional delegation.

Section 5 Expenses.

All administrative expenses associated with carrying out this Executive Order shall be borne by participating agencies within the Executive Branch as allocated within the sole discretion of the State Budget Officer.

This is effective immediately and shall remain in effect until terminated by subsequent executive order.

Done in the capital city of Raleigh, North Carolina, this the 10th day of October, 1996.

*An agency may choose to publish a rule-making agenda which serves as a notice of rule-making proceedings if the agenda includes the information required in a notice of rule-making proceedings. The agency must accept comments on the agenda for at least 60 days from the publication date. Statutory reference: G.S. 150B-21.2.*

**TITLE 15A - DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES**

This agenda will serve as the notice of rule-making proceedings for the following rule-making bodies from November 1, 1996 through December 31, 1996:

Environmental Management Commission - to rules codified in 15A NCAC 2; and  
Coastal Resources Commission - to rules codified in 15A NCAC 7.

**AIR QUALITY**

APA #	SUBJECT	RULE CITATION #
E1961	Change the names of Divisions	15A NCAC 2D .0101, .0104, .0105, .0108, .0202, .0302, .0501, .0521, .0524, .0525, .0531, .0610, .0912, .0953, .0954, .1005, .1107, .1203, .0307, and .0521 and 2H .1202 -.1205
E1962	Municipal Waste Landfills	15A NCAC 2D .2200 (new section)

**COASTAL MANAGEMENT**

APA #	SUBJECT	RULE CITATION #
E2097	Temporary rules to establish procedures for determining the setback measurement line on beaches devoid of vegetation as a result of a hurricane or major storm.	15A NCAC 7H .0304 and .0305 -Temporary Rules, published in Volume 11, Issue 15 of the Register.
E2101	Expansion of existing general permit to include installation of gas and sewer lines	15A NCAC 7H .1600

**WATER QUALITY**

APA #	SUBJECT	RULE CITATION #
E2093	Conditions for Issuing General Permits	15A NCAC 2H .0225 - Temporary Rule, published in Volume 11, Issue 15 of the Register

**WATER QUALITY/GROUNDWATER**

APA #	SUBJECT	RULE CITATION #
E2100	Risk Based Corrective Action for Petroleum Underground Storage Tanks	15A NCAC 2L .0115, 2N, 2P, 2L

**APA #: E1961**

SUBJECT: Change the names of Divisions

RULE CITATION #: 15A NCAC 2D .0101, .0104, .0105, .0108, .0202, .0302, .0501, .0521, .0524, .0525, .0531, .0610, .0912, .0953, .0954, .1005, .1107, .1203, .0307, and .0521 and 2H .1202 -.1205

STATUTORY AUTHORITY: G.S. 20-128.2(a); 143-213; 143-215.3(a)(1); 143-215.3(a)(11),(12); 143-215.107(a)(3); 143-215.107(a)(4); 143-215.107(a)(5); 143-215.107(a)(6); 143-215.107(a)(7); 143-215.108(b); 143B-282; 150B-13; 150B-14(c); 150B-21.6; 150B-21.2(b)

DIVISION/SECTION: AIR QUALITY

DIVISION CONTACT: Thomas Allen

DIVISION CONTACT TEL#: (919)733-1489

DATE INITIATED: 4/30/96

DURATION OF RULE: Permanent

TYPE OF RULE:

STAGE OF DEVELOPMENT: Concept Stage

GOV LEVELS AFFECTED: None

REASON FOR ACTION: To change division names.

SCOPE/NATURE/SUMMARY: Effective July 1, 1996, the Air Quality Section became the Division of Air Quality, and the Division of Solid Waste Management became the Division of Waste Management. There are 27 rules that need to be amended to change Division of Environmental Management and Air Quality Section to Division of Air Quality. Three rules need to be amended to change Division of Solid Waste Management to Division of Waste Management.

Section 15A NCAC 2H .1200, Special Orders, will need to be revised to account for the reorganization.

**APA #: E1962**

SUBJECT: Municipal Waste Landfills

RULE CITATION #: 15A NCAC 2D .2200 (new section)

STATUTORY AUTHORITY: G.S. 143-215.3(a)(1); 143-215.65; 143-215.66; 143-215.107(a)

DIVISION/SECTION: AIR QUALITY

DIVISION CONTACT: Thomas Allen

DIVISION CONTACT TEL#: (919)733-1489

DATE INITIATED: 4/30/96

DURATION OF RULE: Permanent

TYPE OF RULE:

STAGE OF DEVELOPMENT: Concept Stage

GOV LEVELS AFFECTED: Local

REASON FOR ACTION: To limit emissions of volatile organic compounds, toxic air pollutants, and malodorous compounds from existing municipal solid waste landfills.

SCOPE/NATURE/SUMMARY: The rules would apply to municipal solid waste landfills for which construction began before May 30, 1991. Landfills that emitted landfill gas in excess of 50 megagrams (55 tons) per year would be required to control their emissions. Landfills designed to hold 2.5 million megagrams (2.8 million tons) of waste or more will be required to install gas collection systems or prove that the landfill emits less than 50 megagrams per year of non-methane organic compounds. The control requirements would generally involve drilling collection wells into the landfill and routing the gas to a suitable energy recovery system or combustion device. Emissions may be controlled by flaring or by burning the gases in an internal combustion engine, turbine, or boiler. Details of the requirements can be found in 40 CFR Part 60, Subpart Cc (61 FR 9905) EPA identified 11 potentially affected landfills in North Carolina.

**APA #: E2093**

SUBJECT: Conditions for Issuing General Permits

RULE CITATION #: 15A NCAC 2H .0225

STATUTORY AUTHORITY: G.S. 143-215.1(b)(3) and (4); 143-215.10C(a)

DIVISION/SECTION: WATER QUALITY

DIVISION CONTACT: Coleen Sullins

DIVISION CONTACT TEL#: (919)733-5083

DATE INITIATED: 9/30/96

DURATION OF RULE: Temporary 11/8/96

TYPE OF RULE:

STAGE OF DEVELOPMENT: Draft Rule Stage

GOV LEVELS AFFECTED: None

REASON FOR ACTION: Under the normal rule making process, there is not sufficient time to adopt a permanent set of rules prior to the legislative deadline to begin permitting (see Scope).

A permanent rule is required to enable the continued use of general permitting for animal waste operations as mandated by G. S. 143-215.10C. This temporary rule would act as the foundation to provide the Division with the authority to re-issue general permits and to continue to develop new animal general permits as necessary. The ability to issue general permits will increase the efficiency and effectiveness of the permitting program, reduce the time required to obtain a permit and provide for increased public input into the development of the general permits.

SCOPE/NATURE/SUMMARY: The recently enacted legislation, An Act to Implement Recommendations of the Blue Ribbon Study Commission on Agriculture Waste [SB 1217], disallows construction and operation of an animal waste management system by any person until such person has received a permit under Part 1A [Section 2 of SB 1217, amending G. S. 143-215.1(a) adding item (12)]. Part 1A, G. S. 143-215.10C "Applications and permits", requires the Environmental

Management Commission develop a system of general permits for animal waste operations [Section 1 of SB 1217]. The effective date of the above provisions, found in Sections 19(c)(1) and 20, is January 1, 1997. Section 19(c)(1) specifically requires the Department of Environment, Health and Natural Resources issue permits for existing operations beginning January 1, 1997, issuing permit coverage to at least 20% of the existing operations within the first year (all permitting is to be completed within five years). Other operations existing as of January 1, 1997, may continue to operate on a deemed permitted basis. In accordance with Section 20, new animal waste systems as of January 1, 1997, may not begin construction or operation, until a permit has been issued to that operation.

The Environmental Management Commission's power as to permitting is established under G. S. 143-215.1(b). Paragraph (b)(3) allows that general permits may be issued under rules adopted pursuant to Chapter 150B of the General Statutes. Such rules are required to set out conditions under which general permits may be issued. The recently enacted SB 1217, mandates that general permits be issued for animal waste operations and that permitting begin January 1, 1997. The advisory opinion received from the Attorney General's Office stated that the existing rules implementing the nondischarge permit program, under which the animal waste general permits are to be issued, do not provide the necessary rules envisioned by G. S. 143-215.1(b)(3). Further, they believe that rules establishing the process and conditions for issuing nondischarge general permits must be adopted prior to the development and issuance of general permits. The normal rule-making process would likely take until the summer of 1998 to be completed. Therefore, in order to comply with the permitting mandate established in SB 1217, temporary rules establishing the conditions for issuing general permits were developed. Section 25 of the ratified SB 1217 authorizes the Environmental Management Commission to adopt temporary rules to implement the act and begin issuing general permits for animal waste management systems.

**APA #: E2097**

**SUBJECT:** Temporary rule to establish procedures for determining the setback measurement line on beaches devoid of vegetation as a result of a hurricane or major storm.

**RULE CITATION #:** 15A NCAC 7H .0304 and .0305

**STATUTORY AUTHORITY:** G.S. 113A-107; 113A-113; 113A-124

**DIVISION/SECTION:** COASTAL MANAGEMENT

**DIVISION CONTACT:** Preston Pate

**DIVISION CONTACT TEL#:** (919)726-7021

**DATE INITIATED:** 10/3/96

**DURATION OF RULE:** Temporary 10/10/96

**TYPE OF RULE:**

**STAGE OF DEVELOPMENT:** Draft Rule Stage

**GOV LEVELS AFFECTED:** None

**REASON FOR ACTION:** Establish a procedure to determine a baseline from which oceanfront setbacks will be measured in areas with no vegetation as a result of a hurricane or other major storm.

**SCOPE/NATURE/SUMMARY:** The proposed rules will apply to areas affected by Hurricane Fran in Carteret, Onslow, Pender and New Hanover Counties. They establish procedures for locating a measurement line using pre-storm photography and measurement of the degree of shoreline erosion and vegetation line movement along specific stretches of beaches.

**APA #: E2100**

**SUBJECT:** Risk Based Corrective Action for Petroleum Underground Storage Tanks

**RULE CITATION #:** 15A NCAC 2L .0115, 2N, 2P, 2L

**STATUTORY AUTHORITY:** G.S. 143-215.94V

**DIVISION/SECTION:** WATER QUALITY/GROUNDWATER

**DIVISION CONTACT:** Arthur Mouberry

**DIVISION CONTACT TEL#:** (919)733-3221

**DATE INITIATED:** 10/8/96

**DURATION OF RULE:** Permanent 10/1/97

**TYPE OF RULE:**

**STAGE OF DEVELOPMENT:** Draft Rule Stage

**GOV LEVELS AFFECTED:** None

**REASON FOR ACTION:** The adoption of 15A NCAC 2L .0115 will require the owner or operator or a landowner, eligible for reimbursement from the state's Commercial and Non-commercial Underground Storage Tank Trust Funds pursuant to NCGS 143-215.94E(b1), to determine the degree of risk to human health and the environment that is posed by a discharge or release from a petroleum underground storage tank. This new rule is necessary in order to fully enact the requirements of the NCGS 143-215.94V and Chapter 648 of Senate Bill 1317. The new rule is intended to assure that state trust fund

reimbursements are continued for sites that have the greatest risk and to reduce the demand on trust funds. 15A NCAC 2L .0115 will replace temporary rules 2L .0106 (r) and (s) once permanent risk based rules are in place. The intent of the classification process will be to identify, as early as possible in the regulatory process, what assessment and release response is necessary at a site to protect human health and the environment. Site classification will take into account both the current and potential future use of groundwater as a source for drinking water and for non-drinking water uses (e.g. washing cars, filling swimming pools). The rule will contain a provision that allows for "no further action" to be taken at a site if certain conditions are met. Once this determination is made, costs incurred by a responsible party for further assessment and/or cleanup activities will not be reimbursable from the Commercial or Non-commercial Trust Funds unless any of the conditions specified in G.S. 143-215.94V(e)(1) are applicable.

The amendment to 15A NCAC 2N will change corrective action requirements and other requirements for underground storage tanks that receive disbursements through the Commercial and Non-commercial Leaking Petroleum Underground Storage Tank Trust Funds. These tanks will be required to meet certain criteria prior to the implementation of risk based cleanup, pursuant to 15A NCAC 2L .0115.

The amendment to 15A NCAC 2P will specify that if a cleanup under 2L .0115 or .0106 is not necessary, the costs incurred for such cleanup by an owner,operator or landowner will not be considered "reasonable and necessary" and will not receive state trust fund reimbursements. This change will enable the Division to more effectively prioritize reimbursements from the trust funds based on the degree of risk from a release of petroleum.

The amendment to 2L will include changes as necessary to maintain consistency of these rules with the adoption of 15A NCAC 2L .0115.

**SCOPE/NATURE/SUMMARY:** 15A NCAC 2L .0115: Specifies the risk-based approach to corrective action as required by NCGS 143-215.94V and Senate Bill 1317. The rule will define a tiered approach to site assessment that will result in the classification of contaminated sites into two or more risk categories and define appropriate release response for the respective categories.

15A NCAC 2N: Establishes technical standards, initial site characterization, corrective action, reporting requirements, and closure requirements for underground storage tanks.

15A NCAC 2P: Established the conditions under which disbursements of funds occur through the Commercial and Non-commercial Leaking Petroleum Underground Tank Trust Funds.

15A NCAC 2L: Establishes the groundwater classifications, groundwater standards, and procedures necessary to preserve the quality of groundwaters, prevent and abate pollution and contamination of waters of the state, to protect public health, and permit the management of the groundwaters for the best usage by the citizens of North Carolina.

**APA #: E2101**

**SUBJECT:** Expansion of existing general permit to include installation of gas and sewer lines

**RULE CITATION #:** 15A NCAC 7H .1600

**STATUTORY AUTHORITY:** G.S. 113-229(c1); 113A-107(a)(b); 113A-113(b); 113A-118.1

**DIVISION/SECTION:** COASTAL MANAGEMENT

**DIVISION CONTACT:** Bob Stroud

**DIVISION CONTACT TEL#:** (910)395-3900

**DATE INITIATED:** 10/11/96

**DURATION OF RULE:** Permanent

**TYPE OF RULE:**

**STAGE OF DEVELOPMENT:** Draft Rule Stage

**GOV LEVELS AFFECTED:** None

**REASON FOR ACTION:** Permit simplification.

**SCOPE/NATURE/SUMMARY:** The scope of the existing general permit is being expanded to allow approval of the installation of pipelines carrying sanitary sewage and natural gas.

**A Notice of Rule-making Proceedings is a statement of subject matter of the agency's proposed rule making. The agency must publish a notice of the subject matter for public comment at least 60 days prior to publishing the proposed text of a rule. Publication of a temporary rule serves as a Notice of Rule-making Proceedings and can be found in the Register under the section heading of Temporary Rules. A Rule-making Agenda published by an agency serves as Rule-making Proceedings and can be found in the Register under the section heading of Rule-making Agendas. Statutory reference: G.S. 150B-21.2.**

**TITLE 15A - DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES**

**CHAPTER 2 - ENVIRONMENTAL MANAGEMENT**

**N**otice of Rule-making Proceedings is hereby given by the Environmental Management Commission in accordance with G.S. 150B-21.2. The agency shall subsequently publish in the Register the text of the rule(s) it proposes to adopt as a result of this notice of rule-making proceedings and any comments received on this notice.

**Citation to Existing Rules Affected by this Rule-Making:** 15A NCAC 2L; 15A NCAC 2L .0115; 15A NCAC 2N; 15A NCAC 2P. Other rules may be proposed in the course of the rule-making process.

**Authority for the rule-making:** G.S. 143-215.94V

**Statement of the Subject Matter:** The Environmental Management Commission has proposed rulemaking to adopt Title 15A NCAC 2L .0115 (Risk Based Corrective Action for Petroleum Underground Storage Tanks), amend Title 15A NCAC 2N (Underground Storage Tanks), amend Title 15A NCAC 2P (Rules for the Administration of the Leaking Petroleum Underground Storage Tank Cleanup Funds) and amend 15A NCAC 2L (Groundwater Classification and Standards). These Rules will specify a risk-based approach for the assessment, cleanup of discharges and releases from petroleum underground storage tanks. These changes will also specify the conditions under which sites are required to be cleaned-up. The new rule and amendments will also establish conditions under which "reasonable and necessary" reimbursements will be made from the state's Commercial and Non-commercial Petroleum Underground Storage Tank Trust Funds. The rule changes are necessary in order to fully enact the requirements of the North Carolina General Statute (NCGS) 143-215.94V and Chapter 648 of Senate Bill 1317 (1995 {1996 Regular Session} C. 648). The adoption of 15A NCAC 2L .0115 and amendments to 15A NCAC 2N, 15A NCAC 2P, and 15A NCAC 2L are intended to assure that state trust fund reimbursements are continued for sites that pose the greatest risk and to reduce the demand on trust funds for those sites that are not a threat to public health or the environment. Final approval of this rulemaking will result in the repeal of Temporary Rule amendments to 15A NCAC 2L .0106(r) and (s) (Risk Determination Rules) that became effective January 2, 1996.

**Reason for Proposed Action:** Pursuant to the passage of Senate Bill 1317 on June 21, 1996, North Carolina General Assembly has required that the Environmental Management Commission publish the "...text of the proposed risk based rule required by G.S. 143-215.94V(b) as soon as possible and no later than 1 January 1997." The requirements of NCGS 150B-21.2 specifies that a Notice of Rulemaking Proceedings be published in the North Carolina Register at least sixty days prior to the publication to proceed with rulemaking as close to this legislative deadline as possible.

**Comment Procedures:** All persons interested in these matters are encouraged to submit written comments or questions to Ruth Strauss, EHNR-DWQ: Groundwater Section, PO Box 29578, Raleigh, NC 27626-0578, {phone: (919) 733-1330, fax: (919) 715-9413}. Comments will be accepted through December 31, 1996.

*The Codifier of Rules has entered the following temporary rule(s) in the North Carolina Administrative Code. Pursuant to G.S. 150B-21.1(e), publication of a temporary rule in the North Carolina Register serves as a notice of rule-making proceedings unless this notice has been previously published by the agency.*

**TITLE 10 - DEPARTMENT OF HUMAN RESOURCES**

**Rule-making Agency:** *DHR - Division of Medical Assistance*

**Rule Citation:** *10 NCAC 26G .0707*

**Effective Date:** *November 8, 1996*

**Findings Reviewed and approved by Beecher R. Gray**

**Authority for the rule-making:** *42 C.F.R. Part 455*

**Reason for Proposed Action:** *Medicaid Pays Part B Premium for approximately 200,000 dual eligible recipients. Medicaid pays the co-insurance and deductible on claims filed to Medicare for this category of recipients. Medicare pays 80% of the cost of care on this category of recipients. Medicaid pays 20% (co-insurance and deductible) on this category of recipients. At the present Medicare makes recoupments from providers that serve this category of recipients using a Disproportionate Stratified Random Sampling Technique. Medicaid is unable to recoup the (20% co-insurance and deductible) on these claims because our present rule states that the "Agency will use a Disproportionate Stratified Random Sampling Technique in establishing provider overpayments only for repeat offenders." When Medicare recoups on dual eligible recipients, first time offenders are allowed to keep Medicaid's portion of the payment because of the "repeat offender" wording in the present rule. This amounts to 20% of the dollar amount paid out on behalf of the approximately 200,000 dual eligible Part B recipients. The Medicaid Agency pays this 20% on every claim filed that Medicare has made payment on. These payments amounts to millions of dollars.*

**Comment Procedures:** *Written comments concerning this rule-making action must be submitted by December 31, 1996 to Portia Rochelle, APA Coordinator, Division of Medical Assistance, 1985 Umstead Drive, Raleigh, NC 27603.*

**CHAPTER 26 - MEDICAL ASSISTANCE**

**SUBCHAPTER 26G - PROGRAM INTEGRITY**

**SECTION .0700 - ADMINISTRATIVE SANCTIONS AND RECOUPMENT**

**.0707 TECHNIQUE FOR PROJECTING MEDICAID OVERPAYMENTS**

**(a)** *The Medicaid agency will seek restitution of*

*overpayments made to providers by the Medicaid program.*

**(b)** *The agency will may use a Disproportionate Stratified Random Sampling Technique in establishing provider overpayments. overpayments only for repeat offenders.*

**(c)** *This technique is an extrapolation of a statistical sampling of claims used to determine the total overpayment for recoupment.*

**(d)** *The provider may challenge the validity of the findings in the SAMPLE itself in accordance with the provisions found at Rule .0402 and .0403 of this Subchapter.*

*History Note: Authority G.S. 108A-25(b); 108A-54; 108A-63; 42 C.F.R. Part 455;*

*Eff. October 1, 1987;*

*Temporary Amendment Eff. November 8, 1996.*

\*\*\*\*\*

**Rule-making Agency:** *DHR/Division of Medical Assistance*

**Rule Citation:** *10 NCAC 26H .0212 - .0213*

**Effective Date:** *September 25, 1996*

**Findings Reviewed and approved by Julian Mann III**

**Authority for the rule-making:** *G.S. 108A-25(B); 108A-54; 108A-55; 45 C.F.R. 447, Subpart C.*

**Reason for Proposed Action:** *This change is necessary to prevent loss of federal funds and to more appropriately pay hospitals closer to their cost for providing care to Medicaid and uninsured patients.*

**Comment Procedures:** *Written comments concerning this rule-making action must be submitted by December 12, 1996 to Portia Rochelle, APA Coordinator, Division of Medical Assistance, 1985 Umstead Drive, Raleigh, NC 27603.*

**SUBCHAPTER 26H - REIMBURSEMENT PLANS**

**SECTION .0200 - HOSPITAL INPATIENT REIMBURSEMENT PLAN**

**.0212 EXCEPTIONS TO DRG REIMBURSEMENT**

**(a)** *Covered psychiatric and rehabilitation inpatient services provided in either specialty hospitals, Medicare recognized distinct part units (DPU), or other beds in general acute care hospitals shall be reimbursed on a per diem methodology.*

**(1)** *For the purposes of this Section, psychiatric*

inpatient services are defined as admissions where the primary reason for admission would result in the assignment of DRGs in the range 424 through 432 and 436 through 437. For the purposes of this Section, rehabilitation inpatient services are defined as admissions where the primary reason for admissions would result in the assignment of DRG 462. All services provided by specialty rehabilitation hospitals are presumed to come under this definition.

(2) When a patient has a medically appropriate transfer from a medical or surgical bed to a psychiatric or rehabilitative distinct part unit within the same hospital, or to a specialty hospital the admission to the distinct part unit or the specialty hospital shall be recognized as a separate service which is eligible for reimbursement under the per diem methodology. Transfers occurring within general hospitals from acute care services to non-DPU psychiatric or rehabilitation services are not eligible for reimbursement under this Section. The entire hospital stay in these instances shall be reimbursed under the DRG methodology.

(3) The per diem rate for psychiatric services is established at the lesser of the actual cost trended to the rate year or the calculated median rate of all hospitals providing psychiatric services as derived from the most recent as filed cost reports.

(4) Hospitals that do not routinely provide psychiatric services shall have their rate set at the median rate.

(5) The per diem rate for rehabilitation services is established at the lesser of the actual cost trended to the rate year or the calculated median rate of all hospitals providing rehabilitation services as derived from the most recent filed cost reports.

(6) Rates established under this Paragraph are adjusted for inflation consistent with the methodology under Rule .0211 Subparagraph (d)(5) of this Section.

(b) To assure compliance with the separate upper payment limit for State-operated facilities, the hospitals operated by the Department of Human Resources and all the primary affiliated teaching hospitals for the University of North Carolina Medical Schools shall be reimbursed their reasonable costs in accordance with the provisions of the Medicare Provider Reimbursement Manual. This Manual referred to as, (HCFA Publication #15-1) is hereby incorporated by reference including any subsequent amendments and editions. A copy is available for inspection at the Division of Medical Assistance, 1985 Umstead Drive, Raleigh, NC. Copies may be obtained from the U.S. Department of Commerce, National Technical Information Service, Subscription Department, 5285 Port Royal Road, Springfield, VA 22161 at a cost of one hundred forty seven dollars (\$147.00). Purchasing instructions may be received by calling (703) 487-4650. Updates are available for an additional fee. The Division shall utilize the DRG methodology to make interim payments to providers covered under this Paragraph, setting the hospital unit value at a level which can best be expected to approximate reasonable cost. Interim payments made under the DRG methodology to these providers shall be retrospectively settled to reasonable cost.

(c) When the Norplant contraceptive is inserted during an inpatient stay the current Medicaid fee schedule amount for the Norplant kit shall be paid in addition to DRG reimbursement. The additional payment for Norplant shall not be paid when a cost outlier or day outlier increment is applied to the base DRG payment.

(d) Hospitals operating Medicare approved graduate medical education programs shall receive a per diem rate adjustment which reflects the reasonable direct and indirect costs of operating these programs. The per diem rate adjustment shall be calculated in accordance with the provisions of Rule .0211 Paragraph (f) of this Section.

(e) ~~For the 12 month period ending September 30, 1995, hospitals licensed by the State of North Carolina and reimbursed under the DRG methodology for more than 50 percent of Medicaid inpatient discharges shall be entitled to an additional payment in an amount determined by the Director of the Division of Medical Assistance, subject to the following provisions: Hospitals licensed by the State of North Carolina and reimbursed under the DRG methodology for more than 50 percent of their Medicaid inpatient discharges for the 12-month period ending September 30, 1996 shall be entitled to an additional payment for inpatient and outpatient hospital services in an amount determined by the Director of the Division of Medical Assistance, subject to the following provisions:~~

(1) ~~The maximum payments authorized by this Paragraph for public hospitals that qualify under the criteria in Part (A) of this Subparagraph shall be calculated by ascertaining the reasonable cost of inpatient and outpatient hospital Medicaid services, plus the reasonable direct and indirect costs attributable to Medicaid services of operating Medicare approved graduate medical education programs, less Medicaid payments received or to be received for these services. With respect to qualifying hospitals that are not public hospitals qualified under Part (A) of this Subparagraph, the maximum payment authorized by this Paragraph shall be calculated by ascertaining 64.71 percent of the unreimbursed reasonable cost calculated by use of the methodology described in the preceding sentence, not to exceed in the aggregate for all such hospitals fifty one million seven hundred thousand dollars (\$51,700,000). For purposes of this Subparagraph: To ensure that the payments authorized by this Subparagraph for qualified public hospitals that qualify under the criteria in Part (A) of this Subparagraph, do not exceed the upper limits established by 42 C.F.R. 447.272,~~

the maximum payments authorized for qualified public hospitals shall be determined for all such qualified public hospitals for the 12-month period ending September 30, 1996 by calculating the "Medicaid Deficit" for each hospital. The Medicaid Deficit shall be calculated by ascertaining the reasonable costs of inpatient and outpatient hospital Medicaid services; plus the reasonable direct and indirect costs attributable to inpatient and outpatient Medicaid services of operating Medicare approved graduate medical education programs; less Medicaid payments received or to be received for these services. For purposes of this Subparagraph:

(A) A qualified public hospital is a hospital that meets the other requirements of this Paragraph and:

- (i) was owned or operated by a State (or by an instrumentality or a unit of government within a State) throughout the 12-month period ending September 30, 1995; 1996;
- (ii) indicated its legal entity status as a government unit on the Hospital License Renewal Application filed with the Division of Facility Services, North Carolina Department of Human Resources for the 1995 calendar year, and verified its status as a public hospital by certifying State, local, hospital district or authority government control on the most recent version of Form HCFA-1514 filed with the Health Care Financing Administration, U.S. Department of Health and Human Services on or before September 23, 1996; and
- (iii) submits to the Division of Medical Assistance on or before September 20, 1995 by use of a form prescribed by the Division, a certificate of public expenditures to support the non-federal share of the payment it shall receive pursuant to this Paragraph. files with the Division on or before September 23, 1996 by use of a form prescribed by the Division a certificate of public expenditures to support the non-federal share of the payment it shall receive pursuant to this Subparagraph.

(B) Reasonable costs shall be ascertained in accordance with the provisions of the Medicare Provider Reimbursement Manual. This Manual, referred to as HCFA Publication #15-1, is hereby incorporated by reference including subsequent amendments and

editions. A copy of this Manual is available for inspection at the Division of Medical Assistance, 1985 Umstead Drive, Raleigh, NC. Copies may be obtained from the US Department of Commerce, National Technical Information Service, Subscription Department, 5285 Port Royal Road, Springfield, VA 22161, at a cost of one hundred forty seven dollars (\$147.00). Purchasing instructions may be received by calling (703) 487-4650. Updates are available for an additional fee. Manual as defined in Paragraph (b) of this Rule.

(C) The phrase "Medicaid payments received or to be received for these services" shall exclude all Medicaid disproportionate share hospital payments received or to be received. received except for payments received or to be received pursuant to 10 NCAC 26H .0213(d).

(2) Should 64.71 percent of the unreimbursed reasonable cost of Medicaid services for qualifying hospitals that are not qualified public hospitals be determined by the Director of the Division of Medical Assistance to exceed the sum of fifty one million seven hundred thousand dollars (\$51,700,000), the maximum payment of fifty one million seven hundred thousand dollars (\$51,700,000) to such hospitals authorized by this Paragraph shall be prorated among such hospitals based on unreimbursed reasonable costs. Qualified public hospitals shall receive a payment under this Paragraph in an amount (including the public expenditures certified to the Division by each hospital for the non-federal share) not to exceed each hospital's Medicaid Deficit.

(3) Payments authorized by this Paragraph shall be made on or before September 30, 1995 solely on the basis of an estimate of costs incurred and payments received for Medicaid services during the 12 months ending September 30, 1995. The Director of the Division of Medical Assistance shall determine the amount of the estimated payments to be made by analysis of costs incurred and payments received for Medicaid services as reported on cost reports for fiscal years ending in 1994 filed before September 15, 1995 and supplemented by such additional financial information as is available to the Director when the estimated payments are calculated if and to the extent that the Director concludes that such additional financial information is reliable and relevant. Hospitals licensed by the State of North Carolina and reimbursed under the DRG methodology for more than 50 percent of their Medicaid inpatient discharges for the 12-months ending September 30, 1996 that are not qualified public hospitals as

defined in this Paragraph shall be entitled to an additional payment under this Subparagraph for the Medicaid Deficit calculated in accordance with Subparagraph (1) in an amount not to exceed 64.59 percent of the Medicaid Deficit.

(4) Seley to ensure that estimated payments pursuant to Subparagraph (3) of this Paragraph do not exceed the hospital specific and state aggregate upper limits to such payments established by applicable federal law and regulation, such payments shall be cost settled as determined by an independent CPA furnished by the provider, based on cost reports covering the 12 months ending September 30, 1995, and hospital recipients of such payments shall promptly refund such payments if and to the extent that such payments exceed the applicable upper limit. No additional payments shall be made in connection with the cost settlement. Payments authorized by this Paragraph shall be made solely on the basis of an estimate of costs incurred and payments received for inpatient and outpatient Medicaid services during the 12 months ending September 30, 1996. The Director of the Division of Medical Assistance shall determine the amount of the estimated payments to be made by analysis of costs incurred and payments received for Medicaid services as reported on cost reports for fiscal year ending in 1995 filed before September 15, 1996 and supplemented by additional financial information available to the Director when the estimated payments are calculated if and to the extent that the Director concludes that the additional financial information is reliable and relevant.

(5) The payments authorized by this Paragraph shall be effective in accordance with G.S. 108A-55(e). To ensure that estimated payments pursuant to this Paragraph do not exceed the State aggregate upper limits to such payments established by applicable federal law and regulation (42 C.F.R. 447.272), such payments shall be cost settled within 12 months of receipt of the completed cost report covering the 12-month period ending September 30, 1996. Hospitals that receive payments in excess of unreimbursed reasonable costs as defined in this Paragraph shall promptly refund such payments. No additional payments shall be made in connection with the cost settlement.

(6) The payments authorized by this Paragraph shall be effective in accordance with G.S. 108A-55(c).

Amended Eff. January 1, 1996;  
Temporary Amendment Eff. September 25, 1996.

**.0213 DISPROPORTIONATE SHARE HOSPITALS**

(a) Hospitals that serve a disproportionate share of low-income patients and have a Medicaid inpatient utilization rate of not less than one percent are eligible to receive rate adjustments. The cost report data and financial information that is required in order to qualify as a disproportionate share hospital effective April 1, 1991 is based on the fiscal year ending in 1989 for each hospital, as submitted to the Division of Medical Assistance on or before April 1, 1991. The cost report data and financial information to qualify as a disproportionate share hospital effective July 1, 1991 is based on the fiscal year ending in 1990 for each hospital, as submitted to the Division of Medical Assistance on or before September 1, 1991. In subsequent years, qualifications effective July 1 of any particular year are based on each hospital's fiscal year ending in the preceding calendar year. The patient days, costs, revenues, or charges related to nursing facility services, swing-bed services, home health services, outpatient services, or any other service that is not a hospital inpatient service cannot be used to qualify for disproportionate share status. A hospital is deemed to be a disproportionate share hospital if:

- (1) The hospital has at least two obstetricians with staff privileges at the hospital who have agreed to provide obstetric services to individuals eligible for Medicaid. In the case of a hospital located in a rural area, the term obstetrician includes any physician with staff privileges at the hospital to perform non-emergency obstetric services as of December 21, 1987 or to a hospital that predominantly serves individuals under 18 years of age; and
- (2) The hospital's Medicaid inpatient utilization rate, defined as the percentage resulting from dividing Medicaid patient days by total patient days, is at least one standard deviation above the mean Medicaid inpatient utilization rate for all hospitals that receive Medicaid payments in the state; or
- (3) The hospital's low income utilization rate exceeds 25 percent. The low-income utilization rate is the sum of:
  - (A) The ratio of the sum of Medicaid inpatient revenues plus cash subsidies received from the State and local governments, divided by the hospital's total patient revenues; and
  - (B) The ratio of the hospital's gross inpatient charges for charity care less the cash subsidies for inpatient care received from the State and local governments divided by the hospital's total inpatient charges; or
- (4) The sum of the hospital's Medicaid revenues, bad debts allowance net of recoveries, and charity care exceeds 20 percent of gross patient revenues; or

*History Note: Authority G.S. 108A-25(b); 108A-54; 108A-55; 42 C.F.R. 447, Subpart C;*

*Eff. February 1, 1995;*

*Filed as a Temporary Amendment Eff. September 15, 1995, for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;*

(5) The hospital, in ranking of hospitals in the State, from most to least in number of Medicaid patient days provided, is among the top group that accounts for 50 percent of the total Medicaid patient days provided by all hospitals in the State; or

(6) It is a Psychiatric hospital operated by the North Carolina Department of Human Resources, Division of Mental Health, Developmental Disabilities, Substance Abuse Services (DMH/DD/SAS) or UNC Hospitals operated by the University of North Carolina.

(b) The rate adjustment for a disproportionate share hospital is 2.5 percent plus one fourth of one percent for each percentage point that a hospital's Medicaid inpatient utilization rate exceeds one standard deviation of the mean Medicaid inpatient utilization rate in the State. The rate adjustment is applied to a hospital's payment rate exclusive of any previous disproportionate share ~~adjustments~~: adjustments.

(1) ~~An additional one time payment for the 12 month period ending June 30, 1995, in an amount determined by the Director of the Division of Medical Assistance, may be paid to the public hospital having the largest number of Medicaid inpatient days of all hospitals as determined in Subparagraph (a)(5) of this Rule. The payment limits of the Social Security Act, Title XIX, section 1923(g)(1)(B) require that when added to other DSH payments, the additional disproportionate share payment will not exceed 200 percent of the total costs of providing inpatient and outpatient services to Medicaid and uninsured patients less all payments received for services provided to Medicaid and uninsured patients. This payment may be doubled in accordance with section 1923(g)(2). The total of all payments may not exceed the limits on Disproportionate Share Hospital funding as set for the State by HCFA.~~

(2) ~~An additional one time payment for the 12 month period ending September 30, 1995, in an amount determined by the Director of the Division of Medical Assistance, may be paid to the public hospital having the largest number of Medicaid inpatient days of all hospitals as determined in Subparagraph (a)(5) of this Rule, determined without regard to the inpatient days of either the hospital that qualifies for disproportionate share payments under the provisions of Subparagraph (b)(1) of this Rule or the hospitals that qualify for payments under 10 NCAC 26H .0212(b). The payment limits of the Social Security Act, Title XIX, section 1923(g)(1) applied to this payment require that when this payment is added to other DSH payments, the additional disproportionate share payment will not exceed 100 percent of the total costs of providing inpatient and outpatient services to Medicaid and uninsured patients less all payments received for services provided to Medicaid and uninsured patients, except that any payments that may have been made under Subparagraph (b)(1) of this Rule to any hospital qualified for payment under this Subparagraph shall be divided by two for calculating payments received. The total of all payments may not exceed the limits on Disproportionate Share Hospital funding as set for the State by HCFA.~~

~~all payments received for services provided to Medicaid and uninsured patients. The total of all payments may not exceed the limits on Disproportionate Share Hospital funding as set for the State by HCFA.~~

(c) (3) An additional one time payment for the 12-month period ending September 30, 1995, in an amount determined by the Director of the Division of Medical Assistance, may be paid to the Public hospitals that are the primary affiliated teaching hospitals for the University of North Carolina Medical Schools less payments made under authority of Paragraph (e) (d) of this Rule. The payment limits of the Social Security Act, Title XIX, Section 1923(g)(1) applied to this payment require that when this payment is added to other Disproportionate Share Hospital payments, the additional disproportionate share payment will not exceed 100 percent of the total cost of providing inpatient and outpatient services to Medicaid and uninsured patients less all payments received for services provided to Medicaid and uninsured patients. The total of all payments may not exceed the limits on DSH funding as set for the State by HCFA.

(4) ~~An additional one time payment for the 12 month period ending September 30, 1995, in an amount determined by the Director of the Division of Medical Assistance, may be paid to the hospitals that meet the requirements of the Social Security Act Title XIX, Section 1923(e) and that are owned or operated by the Public Hospital Authority organized pursuant to G.S. 131-E-15, that owns or operates hospitals as of September 30, 1995 with a larger number of Medicaid inpatient bed days than any other such Public Hospital Authority. For qualification under this Subparagraph, the requirements of Subparagraphs (a)(1) through (6) of this Rule do not apply. The payment limits of the Social Security Act, Title XIX, Section 1923(g)(1) applied to this payment require that when this payment is added to other Disproportionate Share Hospital payments, the additional disproportionate share payment will not exceed 100 percent of the total cost of providing inpatient and outpatient services to Medicaid and uninsured patients less all payments received for services provided to Medicaid and uninsured patients, except that any payments that may have been made under Subparagraph (b)(1) of this Rule to any hospital qualified for payment under this Subparagraph shall be divided by two for calculating payments received. The total of all payments may not exceed the limits on Disproportionate Share Hospital funding as set for the State by HCFA.~~

(5) ~~The payments authorized by Subparagraphs (1) and (4) of this Paragraph shall be effective in accordance with G.S. 108A-55(e).~~

(d) (e) Effective July 1, 1994, hospitals eligible under

Subparagraph (a)(6) of this Rule shall be eligible for disproportionate share payments, in addition to other payments made under the North Carolina Medicaid Hospital reimbursement methodology, from a disproportionate share pool under the circumstances specified in Subparagraphs (1), (2) and (3) of this Paragraph.

- (1) An eligible hospital will receive a monthly disproportionate share payment based on the monthly bed days of services to low income persons of each hospital divided by the total monthly bed days of services to low income persons of all hospitals items allocated funds.
- (2) This payment shall be in addition to the disproportionate share payments made in accordance with Subparagraphs (a)(1) through (5) of this Rule. However, DMH/DD/SAS operated hospitals are not required to qualify under the requirements of Subparagraphs (a)(1) through (5) of this Rule.
- (3) The amount of allocated funds shall be determined by the Director of the Division of Medical Assistance, but not to exceed the quarterly grant award of funds (plus appropriate non-federal match) earmarked for disproportionate share hospital payments less payments made under Subparagraphs (a)(1) through (5) divided by three. In Subparagraph (e) (d)(1) of this Rule, bed days of services to low income persons is defined as the number of bed days provided to individuals that have been determined by the hospital as patients that do not possess the financial resources to pay portions or all charges associated with care provided. Low income persons include those persons that have been determined eligible for medical assistance. The count of bed days used to determine payment is based upon the month immediately prior to the month that payments are made. Disproportionate share payments to hospitals are limited in accordance with The Social Security Act as amended, Title XIX section 1923 (g), limit on amount of payment to hospitals.

(e) (d) Effective January 1, 1995 (see Subparagraph (6) of this Paragraph) and subject to the availability of funds, hospitals that qualify as disproportionate share hospitals under Subparagraphs (a)(1) through (5) of this Rule and that also operate Medicare approved graduate medical education programs shall be eligible for disproportionate share payments for hospital inpatient services in addition to other payments made under the North Carolina Medicaid Hospital DRG reimbursement methodology from a disproportionate share pool under the circumstances specified in Subparagraphs (1) and (2) of this Paragraph. Subject to the availability of funds, hospitals that qualify as disproportionate share hospitals under Subparagraphs (a)(1) through (5) of this Rule for the fiscal years ended September 30, 1995 and September 30, 1996; operate Medicare approved graduate

medical education programs for the fiscal years ended September 30, 1995 and September 30, 1996; and incur for the 12-month period ending September 30, 1996 unreimbursed costs (calculated without regard to payments under either this Paragraph or Paragraph (f) of this Rule) for providing inpatient and outpatient services to uninsured patients in an amount in excess of two million five hundred thousand dollars (\$2,500,000) shall be eligible for disproportionate share payments for such services from a disproportionate share pool under the circumstances specified in Subparagraphs (1) through (7) of this Paragraph.

- (1) Qualifications effective January 1, 1995 through September 30, 1995 are based on cost report data and financial information for the fiscal year ending in 1993 as submitted to the Division of Medical Assistance on or before September 1, 1994. Qualifications for the 12 month period beginning October 1, 1995 and subsequent 12 month periods beginning October 1 of each year, shall be based on cost report data and financial information for the fiscal year ending in the preceding calendar year, as submitted to the Division of Medical Assistance on or before September 1 immediately preceding the 12 month period beginning October 1 for which eligibility is being determined. Qualification for the 12 month period ending September 30, 1996 shall be based on cost report data and uninsured patient data certified to the Division by hospitals on or before September 23, 1996 for fiscal years ending in 1995, in connection with the disproportionate share hospital application process. Qualification for subsequent 12 month periods ending September 30 of each year shall be based on cost report data and uninsured patient data certified to the Division by hospitals on or before September 1 of each subsequent year, for the fiscal year ending in the preceding calendar year.
- (2) Additional payments for the period from January 1, 1995 through September 30, 1995 shall be made based on hospital cost per case mix index adjusted discharge, as established by Exhibit 5.1 contained in the report entitled "DRG Based Prospective Payment Methodology for Inpatient Services" dated January 25, 1995 prepared by Myers and Stauffer, Chartered Certified Public Accountants, for the North Carolina Division of Medical Assistance and arranged from low to high as specified in Parts (A) and (B) of this Subparagraph: Any payments made pursuant to this Paragraph shall be calculated and paid no less frequently than annually, and prior to the calculation and payment of any disproportionate share payments pursuant to Paragraph (f) of this Rule.

(A) Hospitals with a calculated cost per case mix index adjusted discharge cost of three thousand one hundred fifty six dollars

~~(\$3,156) or less shall be entitled to an additional payment in an amount that when added to other Medicaid payments may not exceed 100% of allowable Medicaid costs, as determined by the Medicare principles of cost reimbursement;~~

~~(B) Hospitals with a calculated cost per case mix index adjusted discharge cost of more than three thousand one hundred fifty six dollars (\$3,156) shall be entitled to additional payments in an amount that when added to other Medicaid payments may not exceed 85% of allowable Medicaid costs, as determined by Medicare principles of cost reimbursement.~~

~~(3) Additional payments for the 12 month period beginning October 1, 1995 and for each subsequent 12 month period shall be determined as specified in Parts (A), (B) and (C) of this Sub-paragraph: For the 12 month period ending September 30, 1996 a payment shall be made to each qualified hospital in an amount determined by the Director of the Division of Medical Assistance based on a percentage (not to exceed a maximum of 23 percent) of the unreimbursed costs incurred by each qualified hospital for inpatient and outpatient services provided to uninsured patients.~~

~~(A) The calculated cost per case mix index adjusted discharge amount of three thousand one hundred fifty six (\$3,156) shall be updated annually by the National Hospital Market Basket Index and the most recent actual and projected cost data available from the North Carolina Office of State Budget and Management;~~

~~(B) Each hospital's cost per case mix index adjusted discharge shall be ascertained by analysis of charges for Medicaid inpatient claims reimbursed under the DRG methodology and paid during the immediately preceding calendar year, multiplied by each hospital's ratio of cost to charges derived from cost report data and financial information for the fiscal year of each hospital ending in the preceding calendar year, as submitted to the Division of Medical Assistance on or before the first day of September immediately preceding the 12 month period beginning October 1 for which eligibility is being determined; and~~

~~(C) Hospitals with a case mix index adjusted discharge cost equal to or less than three thousand one hundred fifty six (\$3,156) plus any annual updated amount shall be entitled to an additional payment in an amount that when added to other Medicaid~~

~~payments may not exceed 100% of allowable Medicaid costs, as determined by the Medicare principles of cost reimbursement; hospitals with calculated costs per case mix index adjusted discharge greater than three thousand one hundred fifty six (\$3,156) plus any annual updated amount shall be entitled to additional payments in an amount that when added to other Medicaid payment does not exceed 85% of allowable Medicaid costs, as determined by Medicare principles of cost reimbursement.~~

~~(4) Payments shall be made on an estimated basis no less frequently than quarterly during the period for which such payments are to be made. Estimated payments shall be based on costs incurred and payments received for Medicaid inpatient DRG services during the most recent fiscal year for which the Division of Medical Assistance has a completed cost report. Estimated payments made to each hospital shall be cost settled as determined by an independent CPA furnished by the provider, based on cost reports for the period for which payments are made, and appropriate adjustments shall be made to assure that such payments do not exceed the hospital's net cost of providing services to Medicaid patients. In subsequent 12 month periods ending September 30th of each year, the percentage payment shall be ascertained and established by the Division by ascertaining funds available for payments pursuant to this Paragraph divided by the total unreimbursed costs of all hospitals that qualify for payments under this Paragraph for providing inpatient and outpatient services to uninsured patients.~~

~~(5) Payments may not exceed the amount of funds available as determined by the Director of the Division of Medical Assistance. Should available funds be insufficient to pay in full the authorized payments, the Division of Medical Assistance shall ascertain maximum payments allowable and the funds available to qualifying hospitals shall be prorated on that basis. The payment limits of the Social Security Act, Title XIX, section 1923(g)(1) applied to the payments authorized by this Paragraph require that when this payment is added to other disproportionate share hospital payments, the total disproportionate share payments shall not exceed 100 percent of the total costs of providing inpatient and outpatient services to Medicaid and uninsured patients for the fiscal year in which such payments are made, less all payments received for services to Medicaid and uninsured patients. The total of all disproportionate share hospital payments shall not exceed the limits on disproportionate share hospital funding as estab-~~

lished for this State by HCFA.

(6) The changes to disproportionate share payments authorized by this Paragraph are in accordance with G.S. 108A-55(e). To ensure that payments pursuant to Paragraph (e) do not exceed the State aggregate upper limits to such payments established by applicable federal law and regulation (42 C.F.R. 447.272), such payments shall be cost settled within 12 months of receipt of the completed cost report covering the period for which such payments are made. If any hospital receives payments pursuant to this Subparagraph in excess of the percentage established by the Director under Subparagraph (d)(3) of this Rule, ascertained without regard to other disproportionate share hospital payments that may have been received for services during the 12-month period ending September 30, 1996, such excess payments shall promptly be refunded to the Division. No additional payment shall be made to qualified hospitals in connection with the cost settlement.

(7) The payments authorized by Subparagraph (6) shall be effective in accordance with G.S. 108A-55(c).

(f) An additional one-time disproportionate share hospital payment during the 12-month period ending September 30, 1996 (subject to the availability of funds and to the payment limits specified in this Paragraph) shall be paid to qualified public hospitals. For purposes of this Paragraph, a qualified public hospital is a hospital that qualifies for disproportionate share hospital status under Subparagraphs (a)(1) through (5) of this Rule; does not qualify for disproportionate share hospital status under Subparagraph (a)(6) of this Rule; was owned or operated by a State (or by an instrumentality or a unit of government within a State) throughout the 12-month period ending September 30, 1996; verified its status as a public hospital by certifying state, local, hospital district or authority government control on the most recent version of Form HCFA-1514 filed with the Health Care Financing Administration, U.S. Department of Health and Human Services on or before September 23, 1996; files with the Division on or before September 23, 1996 by use of a form prescribed by the Division a certification of its unreimbursed charges for inpatient and outpatient services provided to uninsured patients during the fiscal year ending in 1995; and submits to the Division on or before September 23, 1996 by use of a form prescribed by the Division a certificate of public expenditures.

(1) The payment to qualified public hospitals pursuant to this Paragraph for the 12-month period ending September 30, 1996 shall be based on and shall not exceed the unreimbursed charges certified to the Division by each such hospital by use of a form prescribed by the Division for inpatient and outpatient services provided to uninsured patients for the fiscal year ending in 1995, to be converted by the Division to unreimbursed cost by multiply-

ing unreimbursed charges times the cost-to-charge ratio established by the Division for each hospital for the fiscal year ending in 1995. Payments authorized by this Paragraph shall be made no less frequently than annually.

(2) Any payments pursuant to this Paragraph shall be ascertained and paid after any disproportionate share hospital payments that may have been or may be paid by the Division pursuant to Paragraph (d) of this Rule.

(3) The payment limits of the Social Security Act, Title XIX, Section 1923 (g)(1) applied to this payment require that when this payment is added to other disproportionate share hospital payments, the total disproportionate share hospital payments will not exceed 100 percent of the total costs of providing inpatient and outpatient services to Medicaid and uninsured patients for the fiscal year in which such payments are made, less all payments received for services to Medicaid and uninsured patients for that year. The total of all DSH payments by the Division may not exceed the limits on disproportionate share hospital funding as established for this State by HCFA for the fiscal year in which such payments are made.

(4) To ensure that estimated payments pursuant to Paragraph (f) do not exceed the State aggregate upper limits to such payments established by applicable federal law and regulation (42 C.F.R. 447.272), such payments shall be cost settled within 12 months of receipt of the completed cost report covering the 12 month period for which such payments are made. No additional payments shall be made in connection with the cost settlement.

(5) The payments authorized by Paragraph (f) of this Rule shall be effective in accordance with G.S. 108A-55(c).

History Note: Authority G.S. 108A-25(b); 108A-54; 108A-55; 42 C.F.R. 447, Subpart C; Eff. February 1, 1995; Amended Eff. July 1, 1995; Filed as a Temporary Amendment Eff. September 15, 1995, for a period of 180 days or until the permanent rule becomes effective, whichever is sooner; Filed as a Temporary Amendment Eff. September 29, 1995, for a period of 180 days or until the permanent rule becomes effective, whichever is sooner; Amended Eff. January 1, 1996; Temporary Amendment Eff. September 25, 1996.

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TITLE 11 - DEPARTMENT OF INSURANCE

Rule-making Agency: NC Department of Insurance/NC Home Inspector Licensure Board

Rule Citation: 11 NCAC 8 .1001 - .1011, .1101 - .1116, .1201 - .1209

Effective Date: October 24, 1996

**Findings Reviewed and Objected to by Julian Mann:** Statement does not provide sufficient clarity on issue of serious and unforeseen threat or recent enactment of General Assembly. G.S. 150B-21.1(a)(1) and (a)(2). Agency declined to provide additional findings or new statement. Codifier entered rule into the NCAC as provided in G.S. 150B-21.1(b).

Authority for the rule-making: G.S. 143-151.48

**Reason for Proposed Action:** To establish licensing procedures, standards of practice, and a code of ethics for home inspectors as required by law.

**Comment Procedures:** Written comments may be sent to Grover Sawyer, N.C. Department of Insurance, Engineering Division, PO Box 26387, Raleigh, NC 27611.

## CHAPTER 8 - ENGINEERING AND BUILDING CODES

### SECTION .1000 - N.C. HOME INSPECTOR LICENSURE BOARD

#### .1001 OFFICERS

The term of each officer shall be one year. Officers shall serve until a successor is elected and installed. Officers shall be eligible for re-election.

*History Note: Authority G.S. 143-151.48(a); Codifier determined that agency findings did not meet criteria for temporary rule Eff. October 15, 1996; Temporary Adoption Eff. October 24, 1996.*

#### .1002 MEETINGS

(a) Regular Meetings. The date, time, and location of the Board meetings shall be listed with the Secretary of State's office. The chairman shall give written notice of the exact meeting place to each member no later than two weeks before the meeting. The chairman may reschedule a regular meeting by giving written notice to all members no later than two weeks before when the scheduled meeting would normally be held.

(b) Special Meetings. Written notice of any special meetings shall be given to all members of the Board at least two weeks before the time of the meeting, setting forth the time, date, and place of the meeting and the purpose for which it shall be held. In the event of an emergency, the notice period may be shortened as long as every member is notified before the meeting.

*History Note: Authority G.S. 143-151.48(b);*

Codifier determined that agency findings did not meet criteria for temporary rule Eff. October 15, 1996; Temporary Adoption Eff. October 24, 1996.

#### .1003 PERSONS AND PRACTICES NOT AFFECTED

(a) In addition to persons and practices described in G.S. 143-151.62, persons who perform inspections on a single component of a house are not required to be licensed as long as they do not represent themselves as home inspectors. Such persons include chimney sweeps, radon inspectors, heating and cooling maintenance technicians, and moisture intrusion inspectors.

(b) Professional engineers and architects do not need home inspector licenses to make on site inspections of residential buildings for which they are preparing plans, designs, or specifications. General contractors do not need home inspector licenses when they inspect a house as part of preparing an estimate for construction, remodeling, or repairs.

*History Note: Authority G.S. 143-151.49(a)(13); Codifier determined that agency findings did not meet criteria for temporary rule Eff. October 15, 1996; Temporary Adoption Eff. October 24, 1996.*

#### .1004 EQUIVALENT EXPERIENCE

(a) The Board shall consider equivalent experience of applicants who do not meet the experience requirements of G.S. 143-151.51(5) or G.S. 143-151.61. Any one of the following descriptions of experience is considered sufficient to meet the equivalent experience requirements:

- (1) A bachelor of science degree from any accredited engineering, architecture or building technology school and two years experience working in building design, construction, or inspection of building, electrical, mechanical, and plumbing systems.
- (2) A two year Associate of Applied Science degree from an accredited community college or technical school in building technology, civil engineering, electrical engineering, mechanical engineering, or architecture; and either four years of design experience in building, electrical, mechanical, and plumbing systems, or four years experience as an employee under the direct supervision of a licensed general (residential or building) contractor who supervises electrical, mechanical, and plumbing subcontractors.
- (3) Six years experience as an employee under the direct supervision of a licensed general contractor (residential or building) performing building construction and who supervises electrical, mechanical, and plumbing subcontractors.
- (4) Certification by the North Carolina Code Officials Qualification Board as a Code Enforcement Official with Standard Level 1 (or higher) inspec-

tion certification in four areas: building, electrical, mechanical, and plumbing.

(5) Any combination of certification listed in Paragraph (a)(4) of this Rule and a license as an electrical contractor (limited or greater) issued by the N.C. Board of Electrical Examiners, or a license as a heating or cooling contractor (H1, H2, or H3), or a plumbing contractor issued by the N.C. Board of Examiners of Plumbing, Heating and Fire Sprinkler Contractors, resulting in either a certificate or a license in four areas in building, electrical, mechanical, and plumbing contracting or inspections.

(6) For the purpose of G.S. 143-151.51(5)a, the number of completed home inspections for compensation before October 1, 1996, as a home inspector may be included.

(b) Applicants may submit other experience in the design, installation, or inspection of buildings and electrical, mechanical, and plumbing systems. The Board's Application Evaluation Committee shall consider such experience on a case-by-case basis.

(c) Graduation in a home inspection course from a training institute or correspondence school is not sufficient to meet the equivalent experience alone. However, such courses should be listed along with other experience.

*History Note: Authority G.S. 143-151.49(a)(13);*

*143-151.51(5)b;*

*Codifier determined that agency findings did not meet criteria for temporary rule Eff. October 15, 1996;*

*Temporary Adoption Eff. October 24, 1996.*

#### **.1005 RECIPROCITY**

If an applicant is licensed as a home inspector in another state that has laws and rules that are similar to G.S. 143, Article 9F and to the rules of the Board, the Board shall accept that license as evidence of experience. However, the applicant shall satisfactorily complete the Board's written examination and other licensing requirements before the Board shall issue the applicant a license.

*History Note: Authority G.S. 143-151.49(a)(13);*

*Codifier determined that agency findings did not meet criteria for temporary rule Eff. October 15, 1996;*

*Temporary Adoption Eff. October 24, 1996.*

#### **.1006 NET ASSETS OR SURETY BOND**

To be licensed as a home inspector, an applicant must provide proof to the Board that he or she has personal net assets of five thousand dollars (\$5,000) or more. In the alternative, the applicant may provide the Board with a surety bond in the amount of five thousand dollars (\$5,000) or more. The bond shall be written by a surety company authorized by the Commissioner of Insurance to do business in this State.

*History Note: Authority G.S. 143-151.51(3);*

*143-151.49(a)(13);*

*Codifier determined that agency findings did not meet criteria for temporary rule Eff. October 15, 1996;*

*Temporary Adoption Eff. October 24, 1996.*

#### **.1007 EXAMINATION**

An applicant must satisfactorily pass an examination administered by the Board. The examination shall be administered at least twice each year. The applicant must answer 70% of the questions correctly to receive a passing grade. The examination shall include questions about the rules of the Board, G.S. 143, Article 9F inspections of the building structures and their components, and electrical, mechanical, and plumbing systems and appliances.

*History Note: Authority G.S. 143-151.49(a)(13);*

*143-151.51(2); 143-151.42(2);*

*Codifier determined that agency findings did not meet criteria for temporary rule Eff. October 15, 1996;*

*Temporary Adoption Eff. October 24, 1996.*

#### **.1008 APPLICATIONS FOR LICENSES**

Persons may obtain license applications from the Board after they pay the appropriate fee. Applicants shall return a completed application form and any supporting documentation to the Board at least 30 days before the next scheduled examination. The Board shall notify applicants of the times, dates, and locations of examinations. If available space is not sufficient for the number of applicants, additional examinations shall be scheduled.

*History Note: Authority G.S. 143-151.49; 143-151.51;*

*Codifier determined that agency findings did not meet criteria for temporary rule Eff. October 15, 1996;*

*Temporary Adoption Eff. October 24, 1996.*

#### **.1009 DISPLAY OF LICENSE**

Home inspectors shall display their licenses at their places of business. If a home inspector works out of his or her home, the inspector shall keep the license on file in the home.

*History Note: Authority G.S. 143-151.49; 143-151.54;*

*Codifier determined that agency findings did not meet criteria for temporary rule Eff. October 15, 1996;*

*Temporary Adoption Eff. October 24, 1996.*

#### **.1010 APPEALS**

The initial evaluations of license applications shall be made by the Board's staff. Any applicant wishing to appeal the staff's decision may make a written request for a review to the Board's Application Evaluation Committee. The applicant may request a hearing if aggrieved by the Committee's decision.

*History Note: Authority G.S. 143-151.49(a)(13);*

143-151.56(b);  
 Codifier determined that agency findings did not meet criteria for temporary rule Eff. October 15, 1996;  
Temporary Adoption Eff. October 24, 1996.

#### .1011 FEE SCHEDULE

(a) The following fees apply to the licensure of home inspectors:

<u>Application for Home Inspector License</u>	<u>\$ 25.00</u>
<u>Application for Associate Home Inspector License</u>	<u>\$ 15.00</u>
<u>Home Inspector Examination</u>	<u>\$ 75.00</u>
<u>Associate Home Inspector Examination</u>	<u>\$ 75.00</u>
<u>Initial Issuance of Home Inspector License</u>	<u>\$150.00</u>
<u>Initial Issuance of Associate Home Inspector License</u>	<u>\$100.00</u>
<u>Annual Renewal of Home Inspector License</u>	<u>\$150.00</u>
<u>Annual Renewal of Associate Home Inspector License</u>	<u>\$100.00</u>
<u>Late Renewal Penalty Fee - Home Inspector License</u>	<u>\$ 25.00</u>
<u>Late Renewal Penalty Fee - Associate Home Inspector License</u>	<u>\$ 15.00</u>
<u>Copies of Board Rules and License Standards</u>	<u>\$ 5.00</u>

(b) The home inspector and the associate home inspector initial issuance license fees are due after successful completion of the examination. The Board shall not issue a license until it receives the appropriate fee. The license shall be valid from the date of issue until the following September 30.

(c) An applicant who fails the examination may reapply for another examination without payment of another application fee. However, the applicant shall pay the examination fee for the examination.

History Note: Authority G.S 143-151.49; 143-151.55; 143-151.57;  
 Codifier determined that agency findings did not meet criteria for temporary rule Eff. October 15, 1996;  
Temporary Adoption Eff. October 24, 1996.

#### SECTION .1100 - N.C. HOME INSPECTOR STANDARDS OF PRACTICE

##### .1101 DEFINITIONS

The following definitions apply to this Section:

- (1) "Automatic safety controls" means devices designed and installed to protect systems and components from excessively high or low pressures and temperatures, excessive electrical current, loss of water, loss of ignition, fuel leaks, fire, freezing, or other unsafe conditions.
- (2) "Central air conditioning" means a system that

uses ducts to distribute cooled and/or dehumidified air to more than one room or uses pipes to distribute chilled water to heat exchangers in more than one room, and that is not plugged into an electrical convenience outlet.

- (3) "Component" means a readily accessible and observable aspect of a system, such as a floor, or wall, but not individual pieces such as boards or nails where many similar pieces make up the component.
- (4) "Cross connection" means any physical connection or arrangement between potable water and any source of contamination.
- (5) "Dangerous or adverse situations" means situations that pose a threat of injury to the inspector, or those situations that require the use of special protective clothing or safety equipment.
- (6) "Describe" means report in writing a system or component by its type, or other observed characteristics, to distinguish it from other components used for the same purpose.
- (7) "Dismantle" means to take apart or remove any component, device or piece of equipment that is bolted, screwed, or fastened by other means and that would not be dismantled by a homeowner in the course of normal household maintenance.
- (8) "Enter" means to go into an area to observe all visible components.
- (9) "Functional drainage" means a drain is functional when it empties in a reasonable amount of time and does not overflow when another fixture is drained simultaneously.
- (10) "Functional flow" means a reasonable flow at the highest fixture in a dwelling when another fixture is operated simultaneously.
- (11) "Installed" means attached or connected such that the installed item requires tools for removal.
- (12) "Normal operating controls" means homeowner operated devices such as a thermostat, wall switch, or safety switch.
- (13) "Observe" means the act of making a visual examination.
- (14) "On-site water supply quality" means water quality is based on the bacterial, chemical, mineral, and solids content of the water.
- (15) "On-site water supply quantity" means water quantity is the rate of flow of water.
- (16) "Operate" means to cause systems or equipment to function.
- (17) "Readily openable access panel" means a panel provided for homeowner inspection and maintenance that has removable or operable fasteners or latch devices in order to be lifted off, swung open, or otherwise removed by one person; and its edges and fasteners are not painted in place. This definition is limited to those panels within normal reach or from a four-foot stepladder, and

that are not blocked by stored items, furniture, or building components.

(18) "Representative number" means for multiple identical components such as windows and electrical outlets - one such component per room. For multiple identical exterior components - one such component on each side of the building.

(19) "Roof drainage systems" means gutters, downspouts, leaders, splashblocks, and similar components used to carry water off a roof and away from a building.

(20) "Shut down" means a piece of equipment or a system is shut down when it cannot be operated by the device or control that a home owner should normally use to operate it. If its safety switch or circuit breaker is in the "off" position, or its fuse is missing or blown, the inspector is not required to reestablish the circuit for the purpose of operating the equipment or system.

(21) "Solid fuel heating device" means any wood, coal, or other similar organic fuel burning device, including but not limited to fireplaces whether masonry or factory built, fireplace inserts and stoves, woodstoves (room heaters), central furnaces, and combinations of these devices.

(22) "Structural component" means a component that supports non-variable forces or weights (dead loads) and variable forces or weights (live loads).

(23) "System" means a combination of interacting or interdependent components, assembled to carry out one or more functions.

(24) "Technically exhaustive" means an inspection involving the extensive use of measurements, instruments, testing, calculations, and other means to develop scientific or engineering findings, conclusions, and recommendations.

(25) "Underfloor crawl space" means the area within the confines of the foundation and between the ground and the underside of the lowest floor structural component.

History Note: Authority G.S. 143-151.49; Codifier determined that agency findings did not meet criteria for temporary rule Eff. October 15, 1996; Temporary Adoption Eff. October 24, 1996.

## .1102 STANDARDS OF PRACTICE

This Section sets forth the minimum standards of practice required of licensed home inspectors and licensed associate home inspectors. In this Section, the term "home inspectors" means both licensed home inspectors and licensed associate home inspectors.

History Note: Authority G.S. 143-151.49(a)(2); 143-151.49(a)(13); Codifier determined that agency findings did not meet criteria for temporary rule Eff. October 15, 1996;

Temporary Adoption Eff. October 24, 1996.

## .1103 PURPOSE AND SCOPE

(a) Home inspections performed according to this Section shall provide the client with a better understanding of the property conditions, as observed at the time of the home inspection.

(b) Home inspectors shall:

- (1) Provide a written, signed contract that shall:
  - (A) State that the home inspection is in accordance with this Section of the North Carolina Home Inspector Licensure Board;
  - (B) Describe what services shall be provided and their cost; and
  - (C) State, when an inspection is for only one or a limited number of systems or components, that the inspection is limited to only those systems or components;
- (2) Observe readily visible and accessible installed systems and components listed in this Section; and
- (3) Submit a written report to the client that shall:
  - (A) Describe those systems and components specified to be described in Rules .1106 through .1115 of this Section;
  - (B) State which systems and components designated for inspection in this Section have been inspected, and state any systems or components designated for inspection that were not inspected, and the reason for not inspecting;
  - (C) State any systems or components so inspected that do not function as intended, allowing for normal wear and tear, or adversely affect the habitability of the dwelling; and
  - (D) State the name, license number, and signature of the person supervising the inspection and the name, license number, and signature of the person conducting the inspection.

(c) This Section does not limit home inspectors from:

- (1) Reporting observations and conditions or rendering opinions of items in addition to those required in Paragraph (b) of this Rule; or
- (2) Excluding systems and components from the inspection if requested by the client, and so stated in the written contract.

History Note: Authority G.S. 143-151.49; Codifier determined that agency findings did not meet criteria for temporary rule Eff. October 15, 1996; Temporary Adoption Eff. October 24, 1996.

## .1104 GENERAL LIMITATIONS

(a) Inspections done in accordance with this Section are visual and are not technically exhaustive.

(b) This Section applies to buildings with four or less

dwelling units, and individually owned residential units within multi-family buildings, and their attached garages or carports.

*History Note: Authority G.S. 143-151.49; Codifier determined that agency findings did not meet criteria for temporary rule Eff. October 15, 1996; Temporary Adoption Eff. October 24, 1996.*

**.1105 GENERAL EXCLUSIONS**

(a) Home inspectors are not required to report on:

- (1) Life expectancy of any component or system;
- (2) The causes of the need for a repair;
- (3) The methods, materials, and costs of corrections;
- (4) The suitability of the property for any specialized use;
- (5) Compliance or non-compliance with codes, ordinances, statutes, regulatory requirements or restrictions;
- (6) The market value of the property or its marketability;
- (7) The advisability or inadvisability of purchase of the property;
- (8) Any component or system that was not observed;
- (9) The presence or absence of pests such as wood damaging organisms, rodents, or insects; or
- (10) Cosmetic items, underground items, or items not permanently installed.

(b) Home inspectors are not required to:

- (1) Offer or perform any act or service contrary to law;
- (2) Offer warranties or guarantees of any kind;
- (3) Offer or perform engineering, architectural, plumbing, electrical or any other job function requiring an occupational license in the jurisdiction where the inspection is taking place, unless the home inspector holds a valid occupational license, in which case the home inspector may inform the client that the home inspector is so licensed, and is therefore qualified to go beyond this Section and perform additional inspections beyond those within the scope of the basic inspection;
- (4) Calculate the strength, adequacy, or efficiency of any system or component;
- (5) Enter any area or perform any procedure that may damage the property or its components or be dangerous to the home inspector or other persons;
- (6) Operate any system or component that is shut down or otherwise inoperable;
- (7) Operate any system or component that does not respond to normal operating controls;
- (8) Disturb insulation, move personal items, panels, furniture, equipment, plant life, soil, snow, ice, or debris that obstructs access or visibility;
- (9) Determine the presence or absence of any suspected adverse environmental condition or hazard-

ous substance, including but not limited to toxins, carcinogens, noise, contaminants in the building or in soil, water, and air;

- (10) Determine the effectiveness of any system installed to control or remove suspected hazardous substances;
- (11) Predict future condition, including but not limited to failure of components;
- (12) Project operating costs of components;
- (13) Evaluate acoustical characteristics of any system or component; or
- (14) Observe special equipment or accessories that are not listed as components to be observed in this Section.

*History Note: Authority G.S. 143-151.49; Codifier determined that agency findings did not meet criteria for temporary rule Eff. October 15, 1996; Temporary Adoption Eff. October 24, 1996.*

**.1106 STRUCTURAL COMPONENTS**

(a) The home inspector shall observe structural components including:

- (1) Foundation;
- (2) Floors;
- (3) Walls;
- (4) Columns or piers;
- (5) Ceilings; and
- (6) Roofs.

(b) The home inspector shall describe the type of:

- (1) Foundation;
- (2) Floor structure;
- (3) Wall structure;
- (4) Columns or piers;
- (5) Ceiling structure; and
- (6) Roof structure.

(c) The home inspector shall:

- (1) Probe structural components where deterioration is suspected, except where probing would damage any surface;
- (2) Enter underfloor crawl spaces, basements, and attic spaces except when access is obstructed, when entry could damage the property, or when dangerous or adverse situations are suspected;
- (3) Report the methods used to observe underfloor crawl spaces and attics; and
- (4) Report signs of abnormal or harmful water penetration into the building or signs of abnormal or harmful condensation on building components.

*History Note: Authority G.S. 143-151.49; Codifier determined that agency findings did not meet criteria for temporary rule Eff. October 15, 1996; Temporary Adoption Eff. October 24, 1996.*

**.1107 EXTERIOR**

(a) The home inspector shall observe:

- (1) Wall cladding, flashings, and trim;
- (2) Entryway doors and a representative number of windows;
- (3) Garage door operators;
- (4) Decks, balconies, stoops, steps, areaways, porches and applicable railings;
- (5) Eaves, soffits, and fascias; and
- (6) Vegetation, grading, drainage, driveways, patios, walkways, and retaining walls with respect to their effect on the condition of the building.

(b) The home inspector shall:

- (1) Describe wall cladding materials;
- (2) Operate all entryway doors and a representative number of windows;
- (3) Operate garage doors manually or by using permanently installed controls for any garage door operator; and
- (4) Report whether or not any garage door operator will automatically reverse or stop when meeting reasonable resistance during closing.

(c) The home inspector is not required to observe:

- (1) Storm windows, storm doors, screening, shutters, awnings, and similar seasonal accessories;
- (2) Fences;
- (3) Presence of safety glazing in doors and windows;
- (4) Garage door operator remote control transmitters;
- (5) Geological conditions;
- (6) Soil conditions;
- (7) Recreational facilities (including spas, saunas, steam baths, swimming pools, tennis courts, playground equipment, and other exercise, entertainment, or athletic facilities);
- (8) Detached buildings or structures; or
- (9) Presence or condition of buried fuel storage tanks.

*History Note: Authority G.S. 143-151.49; Codifier determined that agency findings did not meet criteria for temporary rule Eff. October 15, 1996; Temporary Adoption Eff. October 24, 1996.*

**.1109 PLUMBING**

(a) The home inspector shall observe:

- (1) Interior water supply and distribution system, including: piping materials, supports, and insulation; fixtures and faucets; functional flow; leaks; and cross connections;
- (2) Interior drain, waste, and vent system, including: traps; drain, waste, and vent piping; piping supports and pipe insulation; leaks; and functional drainage;
- (3) Hot water systems including: water heating equipment; normal operating controls; automatic safety controls; and chimneys, flues, and vents;
- (4) Fuel storage and distribution systems including: interior fuel storage equipment, supply piping, venting, and supports; leaks; and
- (5) Sump pumps.

(b) The home inspector shall describe:

- (1) Water supply and distribution piping materials;
- (2) Drain, waste, and vent piping materials;
- (3) Water heating equipment; and
- (4) Location of main water supply shutoff device.

(c) The home inspector shall operate all plumbing fixtures, including their faucets and all exterior faucets attached to the house, except where the flow end of the faucet is connected to an appliance.

(d) The home inspector is not required to:

- (1) State the effectiveness of anti-siphon devices;
- (2) Determine whether water supply and waste disposal systems are public or private;
- (3) Operate automatic safety controls;
- (4) Operate any valve except water closet flush valves, fixture faucets, and hose faucets;
- (5) Observe:
  - (A) Water conditioning systems;
  - (B) Fire and lawn sprinkler systems;
  - (C) On-site water supply quantity and quality;
  - (D) On-site waste disposal systems;
  - (E) Foundation irrigation systems;
  - (F) Spas, except as to functional flow and functional drainage;
  - (G) Swimming pools;
  - (H) Solar water heating equipment; or
- (6) Observe the system for proper sizing, design, or use of proper materials.

*History Note: Authority G.S. 143-151.49; Codifier determined that agency findings did not meet criteria for temporary rule Eff. October 15, 1996; Temporary Adoption Eff. October 24, 1996.*

**.1110 ELECTRICAL**

(a) The home inspector shall observe:

- (1) Service entrance conductors;
- (2) Service equipment, grounding equipment, main overcurrent device, and main and distribution panels;
- (3) Amperage and voltage ratings of the service;
- (4) Branch circuit conductors, their overcurrent devices, and the compatibility of their ampacities and voltages;
- (5) The operation of a representative number of installed ceiling fans, lighting fixtures, switches and receptacles located inside the house, garage, and on the dwelling's exterior walls;
- (6) The polarity and grounding of all receptacles within six feet of interior plumbing fixtures, and all receptacles in the garage or carport, and on the exterior of inspected structures;
- (7) The operation of ground fault circuit interrupters; and
- (8) Smoke detectors.

(b) The home inspector shall describe:

- (1) Service amperage and voltage;
- (2) Service entry conductor materials;
- (3) Service type as being overhead or underground; and
- (4) Location of main and distribution panels.

(c) The home inspector shall report any observed aluminum branch circuit wiring.

(d) The home inspector shall report on presence or absence of smoke detectors, and operate their test function, if accessible, except when detectors are part of a central system.

(e) The home inspector is not required to:

- (1) Insert any tool, probe, or testing device inside the panels;
- (2) Test or operate any overcurrent device except ground fault circuit interrupters;
- (3) Dismantle any electrical device or control other than to remove the covers of the main and auxiliary distribution panels; or
- (4) Observe:
  - (A) Low voltage systems;
  - (B) Security system devices, heat detectors, or carbon monoxide detectors;
  - (C) Telephone, security, cable TV, intercoms, or other ancillary wiring that is not a part of the primary electrical distribution system; or
  - (D) Built-in vacuum equipment.

*History Note: Authority G.S. 143-151.49; Codifier determined that agency findings did not meet criteria for temporary rule Eff. October 15, 1996; Temporary Adoption Eff. October 24, 1996.*

#### **.1111 HEATING**

(a) The home inspector shall observe permanently

installed heating systems including:

- (1) Heating equipment;
- (2) Normal operating controls;
- (3) Automatic safety controls;
- (4) Chimneys, flues, and vents, where readily visible;
- (5) Solid fuel heating devices;
- (6) Heat distribution systems including fans, pumps, ducts and piping, with supports, insulation, air filters, registers, radiators, fan coil units, convectors; and
- (7) The presence of an installed heat source in each room.

(b) The home inspector shall describe:

- (1) Energy source; and
- (2) Heating equipment and distribution type.

(c) The home inspector shall operate the systems using normal operating controls.

(d) The home inspector shall open readily openable access panels provided by the manufacturer or installer for routine homeowner maintenance.

(e) The home inspector is not required to:

- (1) Operate heating systems when weather conditions or other circumstances may cause equipment damage;
- (2) Operate automatic safety controls;
- (3) Ignite or extinguish solid fuel fires; or
- (4) Observe:
  - (A) The interior of flues;
  - (B) Fireplace insert flue connections;
  - (C) Humidifiers;
  - (D) Electronic air filters; or
  - (E) The uniformity or adequacy of heat supply to the various rooms.

*History Note: Authority G.S. 143-151.49; Codifier determined that agency findings did not meet criteria for temporary rule Eff. October 15, 1996; Temporary Adoption Eff. October 24, 1996.*

#### **.1112 CENTRAL AIR CONDITIONING**

(a) The home inspector shall observe:

- (1) Central air conditioning systems including:
  - (A) Cooling and air handling equipment; and
  - (B) Normal operating controls.
- (2) Distribution systems including:
  - (A) Fans, pumps, ducts and piping, with associated supports, dampers, insulation, air filters, registers, fan-coil units; and
  - (B) The presence of an installed cooling source in each room.

(b) The home inspector shall describe:

- (1) Energy sources; and
- (2) Cooling equipment type.

(c) The home inspector shall operate the systems using normal operating controls.

(d) The home inspector shall open readily openable access panels provided by the manufacturer or installer for

routine homeowner maintenance.

(e) The home inspector is not required to:

- (1) Operate cooling systems when weather conditions or other circumstances may cause equipment damage;
- (2) Observe non-central air conditioners; or
- (3) Observe the uniformity or adequacy of cool-air supply to the various rooms.

*History Note: Authority G.S. 143-151.49; Codifier determined that agency findings did not meet criteria for temporary rule Eff. October 15, 1996; Temporary Adoption Eff. October 24, 1996.*

### .1113 INTERIORS

(a) The home inspector shall observe:

- (1) Walls, ceiling, and floors;
- (2) Steps, stairways, balconies, and railings;
- (3) Counters and a representative number of cabinets; and
- (4) A representative number of doors and windows.

(b) The home inspector shall:

- (1) Operate a representative number of windows and interior doors; and
- (2) Report signs of abnormal or harmful water penetration into the building or signs of abnormal or harmful condensation on building components.

(c) The home inspector is not required to observe:

- (1) Paint, wallpaper, and other finish treatments on the interior walls, ceilings, and floors;
- (2) Carpeting; or
- (3) Drapery, blinds, or other window treatments.

*History Note: Authority G.S. 143-151.49; Codifier determined that agency findings did not meet criteria for temporary rule Eff. October 15, 1996; Temporary Adoption Eff. October 24, 1996.*

### .1114 INSULATION AND VENTILATION

(a) The home inspector shall observe:

- (1) Insulation and vapor retarders in unfinished spaces;
- (2) Ventilation of attics and foundation areas;
- (3) Kitchen, bathroom, and laundry venting systems; and
- (4) The operation of any readily accessible attic ventilation fan, and, when temperature permits, the operation of any readily accessible thermostatic control.

(b) The home inspector shall describe:

- (1) Insulation in unfinished spaces; and
- (2) Absence of insulation in unfinished space at conditioned surfaces.

(c) The home inspector is not required to report on:

- (1) Concealed insulation and vapor retarders; or
- (2) Venting equipment that is integral with household appliances.

*History Note: Authority G.S. 143-151.49;*

*Codifier determined that agency findings did not meet criteria for temporary rule Eff. October 15, 1996; Temporary Adoption Eff. October 24, 1996.*

### .1115 BUILT-IN KITCHEN APPLIANCES

(a) The home inspector shall observe and operate the basic functions of the following kitchen appliances:

- (1) Permanently installed dishwasher, through its normal cycle;
- (2) Range, cook top, and permanently installed oven;
- (3) Trash compactor;
- (4) Garbage disposal;
- (5) Ventilation equipment or range hood; and
- (6) Permanently installed microwave oven.

(b) The home inspector is not required to observe:

- (1) Clocks, timers, self-cleaning oven function, or thermostats for calibration or automatic operation;
- (2) Non built-in appliances; or
- (3) Refrigeration units.

(c) The home inspector is not required to operate:

- (1) Appliances in use; or
- (2) Any appliance that is shut down or otherwise inoperable.

*History Note: Authority G.S. 143-151.49;*

*Codifier determined that agency findings did not meet criteria for temporary rule Eff. October 15, 1996; Temporary Adoption Eff. October 24, 1996.*

### .1116 CODE OF ETHICS

(a) Licensees shall discharge their duties with fidelity to the public, their clients, and with fairness and impartiality to all.

(b) Opinions expressed by licensees shall only be based on their education, experience, and honest convictions.

(c) A licensee shall not disclose any information about the results of an inspection without the approval of the client for whom the inspection was performed, or the client's designated representative.

(d) No licensee shall accept compensation or any other consideration from more than one interested party for the same service without the consent of all interested parties.

(e) No licensee shall accept or offer commissions or allowances, directly or indirectly, from other parties dealing with the client in connection with work for which the licensee is responsible.

(f) No licensee shall express, within the context of an inspection, an appraisal or opinion of the market value of the inspected property.

(g) Before the execution of a contract to perform a home inspection, a licensee shall disclose to the client any interest in a business that may affect the client. No licensee shall allow his or her interest in any business to affect the quality or results of the inspection work that the licensee may be called upon to perform.

(h) Licensees shall not engage in false or misleading

advertising or otherwise misrepresent any matters to the public.

*History Note: Authority G.S. 143-151.49; Codifier determined that agency findings did not meet criteria for temporary rule Eff. October 15, 1996; Temporary Adoption Eff. October 24, 1996.*

## **SECTION .1200 - DISCIPLINARY ACTIONS**

### **.1201 DEFINITIONS**

The following definitions are used in this Section:

- (1) The definitions in G.S. 143-151.45 are incorporated into this Section by reference. "Associate home inspector" is included where reference is made to "home inspector" or "licensee".
- (2) "File or filing" means to place the paper or item to be filed into the care and custody of the presiding officer, and acceptance thereof by him, except that the Board may permit the papers to be filed with the Board, in which event the Board shall note thereon the filing date. All documents filed with the presiding officer or the Board, except exhibits, shall be duplicate in letter size 8 1/2" by 11".
- (3) "Party" means the Board, the licensee, or an intervenor who qualifies under G.S. 150B-38(f). "Party" does not include a complainant unless the complainant is allowed to intervene under G.S. 150B-38(f).
- (4) "Service or serve" means personal delivery or, unless otherwise provided by law or rule, delivery by first class United States Postal Service mail or a licensed overnight express mail service, addressed to the person to be served at his or her last known address. A Certificate of Service by the person making the service shall be appended to every document requiring service under these Rules. Service by mail or licensed overnight express mail is complete upon addressing, enveloping, and placing the item to be served, in an official depository of the United States Postal Service or delivering the item to an agent of an overnight express mail service.

*History Note: Authority G.S. 143-151.49; 150B-38(h); Codifier determined that agency findings did not meet criteria for temporary rule Eff. October 15, 1996; Temporary Adoption Eff. October 24, 1996.*

### **.1202 COMPLAINTS**

(a) Anyone who believes that a licensee is or has been in violation of G.S. 143-151.56(a) may file a written complaint against that licensee. The Board may, upon its own motion, initiate an investigation of a licensee.

(b) An information memo containing instructions for filing the complaint shall be mailed to anyone requesting

complaint information from the Board. A copy of the Board's statutes and rules shall also be sent.

(c) The complaint shall specifically identify the licensee and describe the conduct complained about.

(d) Supporting information shall be included to justify the complaint. Supporting information shall refer to specific violations of the Standards of Practice or of the General Statutes. If the complaint involves items included in the Standards of Practice that the licensee did not observe, a list of those items must be submitted with the complaint. Such information may be provided by the complainant, an architect, professional engineer, licensed contractor, another licensed inspector, or other person with knowledge of the Standards of Practice. A copy of the contract agreement, the inspection report, and any reports made by other consultants shall be included with the complaint.

(e) The complaint shall be in writing, signed by the complainant, and dated. The complaint shall include the complainant's mailing address and a daytime phone number at which the complainant may be reached. The street address of the structure must be included.

(f) The Board shall not consider services that are under the jurisdiction of other regulatory agencies or licensing boards, such as, termite inspections, appraisals, services rendered by licensed architects, engineers, or general contractors, unless the persons rendering those services hold themselves out to be home inspectors.

(g) The Board has no jurisdiction over persons who make specialized inspections as part of their repair or maintenance businesses, such as, roofing repair contractors, chimney sweeps, duct cleaning, and interior environment specialists.

*History Note: Authority G.S. 143-151.49; 150B-38(h); Codifier determined that agency findings did not meet criteria for temporary rule Eff. October 15, 1996; Temporary Adoption Eff. October 24, 1996.*

### **.1203 BOARD STAFF**

The Engineering Division of the Department of Insurance shall not conduct any building, electrical, mechanical, or plumbing inspection of any structure that is the subject of a complaint against an inspector. The Engineering Division shall verify whether the allegations listed in complaints are violations of the Standards of Practice, Code of Ethics, or of the General Statutes.

*History Note: Authority G.S. 143-151.49; 150B-38(h); Codifier determined that agency findings did not meet criteria for temporary rule Eff. October 15, 1996; Temporary Adoption Eff. October 24, 1996.*

### **.1204 INVESTIGATION**

(a) On receipt of a complaint conforming to this Section, the Engineering Division shall make an investigation of the charges and issue a report. The report shall address each item alleged to be a violation of these Rules, Code of Ethics, or of the General Statutes.

(b) A copy of the complaint shall be mailed to the home inspector. The inspector shall submit a written response to the Engineering Division within two weeks after receipt of the copy of the complaint.

(c) A copy of the report shall be mailed to the complainant and to the inspector. The report shall be presented to the Board at its next regularly scheduled meeting.

(d) The report shall state that the complaint either has or lacks sufficient evidence to support the allegations in the complaint.

(e) If the report states that the allegations lack sufficient evidence, the Engineering Division shall:

- (1) Advise the complainant in writing that the evidence was insufficient to support the allegations in the complaint.
- (2) Advise the complainant that the complaint may be reviewed by a committee of Board members appointed by the Chairman to determine whether the finding of the Engineering Division is correct.
- (3) Advise the complainant that the complainant must make a written request for the review and must state in the request the reasons why the complainant is of the opinion the Engineering Division's determination is incorrect.
- (4) If the complainant makes a written request for review by a committee of Board members, the chairman shall appoint the committee. The committee shall review the report and the complainant's documentation. If the committee finds that the allegations are unsupported by the evidence, the Engineering Division shall advise the complainant in writing that the committee has concurred with the Engineering Division's conclusion that the complaint lacks sufficient evidence to support the allegations in the complaint.

History Note: Authority G.S. 143-151.49; 150B-38(h); Codifier determined that agency findings did not meet criteria for temporary rule Eff. October 15, 1996; Temporary Adoption Eff. October 24, 1996.

#### **.1205 DISCIPLINARY HEARING**

If there are findings in the report or by the review committee that there is sufficient evidence to support the allegations in the complaint, the Board shall fix a time and place for a disciplinary hearing and give notice to the licensee. The disciplinary hearing shall be held in accordance with G.S. 150B, Article 3A and this Section.

History Note: Authority G.S. 143-151.49; 150B-38(h); Codifier determined that agency findings did not meet criteria for temporary rule Eff. October 15, 1996; Temporary Adoption Eff. October 24, 1996.

#### **.1206 PRESIDING OFFICER**

In all contested case hearings before the Board, the Chairman of the Board shall serve as presiding officer. In

the absence of the Chairman, the Vice-Chairman shall serve as presiding officer, or a presiding officer shall be elected by the Board.

History Note: Authority G.S. 143-151.49; 150B-38(h); Codifier determined that agency findings did not meet criteria for temporary rule Eff. October 15, 1996; Temporary Adoption Eff. October 24, 1996.

#### **.1207 PREHEARING CONFERENCE**

Upon the request of any party or upon the presiding officer's own motion, the presiding officer may hold a prehearing conference before a contested case hearing. A prehearing conference on the simplification of issues, amendments, stipulations, or other matters may be entered on the record or may be made the subject of an order by the presiding officer. Venue for purposes of a prehearing conference shall be determined in accordance with G.S. 150B-38(e).

History Note: Authority G.S. 143-151.49; 150B-38(h); Codifier determined that agency findings did not meet criteria for temporary rule Eff. October 15, 1996; Temporary Adoption Eff. October 24, 1996.

#### **.1208 CONSENT AGREEMENT**

(a) The Board's staff and the home inspector may attempt to resolve the complaint by means of a consent agreement. Such consent agreement may impose upon the licensee a penalty, or penalties, including the following: requiring the licensee to take training or educational courses, probation, letter of reprimand, suspension of license, or revocation of license.

(b) The proposed consent agreement shall then be presented to the Board at the next meeting. The Board can either accept the consent agreement as written, modify the consent agreement and send it back to the licensee for agreement, or reject the consent agreement.

History Note: Authority G.S. 143-151.49; 150B-38(h); Codifier determined that agency findings did not meet criteria for temporary rule Eff. October 15, 1996; Temporary Adoption Eff. October 24, 1996.

#### **.1209 FINAL BOARD ORDER**

(a) After the close of a contested case hearing, the Board shall meet and determine if the licensee engaged in the conduct alleged and the appropriate penalty, including requiring the licensee to take training or education courses, probation, letter of reprimand, or license suspension or revocation.

(b) If a final Board order is to suspend, revoke, place on probation, or refuse to issue a certificate, the order shall set forth any conditions that must be met in order to remove the suspension or probation, to reissue the license, or to issue the license.

(c) Contested case hearings shall be recorded either by a

recording system or a professional court reporter using stenomask or stenotype.

(d) Transcript costs incurred by the Board shall be paid by the the party or parties requesting a transcript. Any other costs incurred by the Board when using a professional court reporter shall be paid by the requesting party or parties.

(e) A 24-hour cancellation notice is required in all cases. The party or parties responsible for the cancellation shall be responsible for any cancellation fees charged by a professional court reporter.

(f) Transcripts of proceedings during which oral evidence is presented shall be made only upon request of a party. Transcript costs shall include the cost of an original for the Board. An attorney requesting a transcript on behalf of a party is a guarantor of payment of the cost. Cost shall be determined under supervision of the presiding officer who, in cases deemed to be appropriate by him, may require an advance security deposit to cover the prospective cost. The security deposit shall be applied to the actual cost and any excess shall be returned to the party that submitted it.

(g) Copies of tapes are available upon written request at cost of reproduction and postage.

(h) Copies of Board hearings tapes or non-Board certified transcripts therefrom are not part of the official record.

*History Note: Authority G.S. 143-151.49; 150B-38(h); Codifier determined that agency findings did not meet criteria for temporary rule Eff. October 15, 1996; Temporary Adoption Eff. October 24, 1996.*

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**Rule-making Agency:** *Department of Insurance*

**Rule Citation:** *11 NCAC 10 .0602 - .0603, .0606*

**Effective Date:** *November 8, 1996*

**Findings Reviewed and approved by** *Julian Mann*

**Authority for the rule-making:** *G.S. 58-1-40(1); 58-36-30(b); 58-40-30(c)*

**Reason for Proposed Action:** *To amend existing rule to comport with new law and adopt a new rule to provide guidelines that operate under the new law.*

**Comment Procedures:** *Written comments may be sent to Charles Swindell, Department of Insurance, PO Box 26387, Raleigh, NC 27611.*

## **CHAPTER 10 - PROPERTY AND CASUALTY DIVISION**

### **SECTION .0600 - CONSENT TO RATE**

## **.0602 CONSENT TO RATE PROCEDURES: RATE BUREAU COVERAGES**

(a) An initial (first time) application to effect consent to rate on a specific risk of coverage subject to Article 36 of General Statute Chapter 58, in excess of the rate promulgated by the North Carolina Rate Bureau, shall include, but not be limited to, contain the following:

- (1) a description of the insurance proposed, including primary and excess limits, the amount of coverage, the property insured, the deductible deductible, and any other factor used for rating, where applicable;
- (2) the rate and premium that would be charged without application of consent to rate;
- (3) the proposed rate and premium;
- (4) the percent increase. The rate to be charged will shall be presumed reasonable if it does not exceed 250 percent of the rate that would be charged without application of consent to rate. Any proposed rate in excess of 250 percent must be explained fully and is subject to review and approval of the Commissioner ~~commissioner~~ pursuant to G.S. 58-36-30(b). (This is not required for and does not apply to nonfleet private passenger motor vehicle physical damage insurance);
- (5) a statement that the rate charged does not exceed the rate that would be applicable if the applicant had been charged 550 percent of the rate with no Safe Driver Incentive Plan points. Any proposed rate in excess of 550 percent must be explained fully, submitted individually, and is subject to review and approval of the Commissioner ~~commissioner~~ pursuant to G.S. 58-36-30(b). (This is required for nonfleet private passenger motor vehicle physical damage insurance only);
- (6) the names and addresses of the insurer, the writing agent, and the insured;
- (7) the effective date of the proposed rate;
- (8) the policy period;
- (9) the policy number; and
- (10) ~~the reason for the surcharge may be required; and~~
- (11) ~~(10) a letter signed by the insured acknowledging and consenting to the proposed rate. rate (not required to be submitted to the commissioner for nonfleet private passenger motor vehicle physical damage insurance).~~ If coverage for the specific risk written on consent to rate is available through a residual market (FAIR Plan, Beach Plan, North Carolina Reinsurance Facility, North Carolina Workers Compensation Insurance Plan), a statement signed by the insured acknowledging that fact must also be submitted. ~~executed.~~

~~All such applications must be forwarded directly to the commissioner for approval.~~

(b) ~~Such applications involving non standard automobile physical damage insurance may be recorded on a form~~

approved by the commissioner and must be forwarded to the commissioner before the expiration of the 90 day period in Paragraph (e) of this Rule. A letter signed by each insured acknowledging and consenting to the proposed rate shall be retained in the insurer's office and be made available to the commissioner Commissioner upon request. A separate letter with the insured's signature must be obtained for each policy period.

(e) All applications for approval of consent to rate received more than 90 days after the effective date of the proposed rates will be disapproved and construed as effective at the rates that would be charged without application of consent to rate on the effective date.

*History Note: Authority G.S. 58-2-40(1); 58-36-30(b); Eff. February 1, 1976; Readopted Eff. July 11, 1978; Amended Eff. August 3, 1992; February 1, 1990; January 1, 1989; Temporary Amendment Eff. November 8, 1996.*

**.0603 CONSENT TO RATE PROCEDURES: COMMERCIAL COVERAGES**

(a) An initial (first time) application to effect consent to rate on a specific risk of coverage subject to Article 40 of General Statute Chapter 58, in excess of the rate promulgated by a licensed rating organization or filed by a company on its own behalf shall include, but not be limited to, contain the following:

- (1) a description of the insurance proposed, including primary and excess limits, the amount of coverage, the property insured, the deductible deductible, and any other factor used for rating, where applicable;
- (2) the rate and premium that would be charged without application of consent to rate;
- (3) the proposed rate and premium;
- (4) the percent increase. The rate to be charged will be presumed reasonable if it does not exceed 250 percent of the rate that would be charged without application of consent to rate. Any proposed rate in excess of 250 percent must be explained fully and is subject to review and approval by the commissioner Commissioner pursuant to G.S. 58-40-30(c);
- (5) the names and addresses of the insurer, the writing agent, and the insured;
- (6) the effective date of the proposed rate;
- (7) the policy period;
- (8) the policy number; and
- (9) the reason for the surcharge; and,
- (10) (9) a letter signed by the insured acknowledging and consenting to the proposed rate. rate (not required to be submitted to the commissioner for automobile physical damage insurance). If coverage for the specific risk written on consent to rate is available through a residual market (FAIR

Plan, Beach Plan, North Carolina Reinsurance Facility, North Carolina Workers Compensation Insurance Plan), a statement signed by the insured acknowledging that fact must also be submitted. executed.

All such applications must be forwarded directly to the commissioner.

(b) Such applications involving non-standard automobile physical damage insurance may be recorded on a form approved by the commissioner and must be forwarded to the commissioner before the expiration of the 90 day period specified in Paragraph (e) of this Rule. A letter signed by each insured acknowledging and consenting to the proposed rate shall be retained in the insurer's office and be made available to the Commissioner upon request.

(e) All applications for consent to rate received more than 90 days after the effective date of the proposed rates will be rejected and construed as effective at the rates that would be charged without application of consent to rate on the effective date.

*History Note: Authority G.S. 58-2-40(1); 58-40-30(c); Eff. February 1, 1976; Readopted Eff. July 11, 1978; Amended Eff. August 3, 1992; January 1, 1989; Temporary Amendment Eff. November 8, 1996.*

**.0606 CONSENT TO RATE PROCEDURES**

(a) If a policy for which the insured had consented to pay a higher premium rate is reinstated after a lapse, the insurer does not have to obtain a signed statement from the insured under this Section for the reinstatement.

(b) All records generated under G.S. 58-36-30(b) or G.S. 58-40-30(c) and under this Section shall be maintained in accordance with 11 NCAC 19 .0002 and 11 NCAC 19 .0007.

(c) After a signed application is obtained by an insurer under this Section for a policy, all subsequent changes in the policy are endorsements for the purposes of G.S. 58-36-30(b) or G.S. 58-40-30(c).

(d) If a particular kind of coverage is added to a policy by endorsement during the term of the policy and the added coverage is written at a higher rate under G.S. 58-36-30(b) or G.S. 58-40-30(c) and under this Section, the insurer shall obtain the signature of the insured under Rules .0602 and .0603 of this Section no later than the next renewal of the policy.

(e) If an insured consents to pay a higher premium rate under G.S. 58-36-30(b) or G.S. 58-40-30(c) and under this Section and consent to rate coverage is subsequently terminated, if the insured and insurer enter into another agreement under G.S. 58-36-30(b) or G.S. 58-40-30(c) and under this Section, the insurer does not have to obtain the signature of the insured under Rules .0602 and .0603 of this Section unless three years have elapsed since the termination of the coverage.

*History Note: Authority G.S. 58-2-40(1); 58-36-30(b); 58-40-30(c);  
Temporary Adoption Eff. November 8, 1996.*

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## TITLE 15A - DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

**Rule-making Agency:** EHNRC - Environmental Management Commission

**Rule Citation:** 15A NCAC 2H .0225

**Effective Date:** November 8, 1996

**Findings Reviewed and approved by Julian Mann**

**Authority for the rule-making:** G.S. 143-215.1(b)(3), (4); 143-215.10C(a)

**Reason for Proposed Action:** A permanent rule is required to enable the continued use of general permitting for animal waste operations as mandated by G.S. 143-215.10C. This temporary rule would act as the foundation to provide the Division with the authority to re-issue general permits and to continue to develop new animal general permits as necessary. The ability to issue general permits will increase the efficiency and effectiveness of the permitting program, reduce the time required to obtain a permit and provide for increased public input into the development of the general permits.

**Comment Procedures:** Comments, statements, data and other information may be submitted in writing within 60 days after the date of publication of this issue in the North Carolina Register. Copies of the proposed rules and information package may be obtained by contacting the Permits & Engineering Unit at (919) 733-5083 (ext. 574 or ext. 524). Written comments may be submitted to Coleen Sullins, Division of Water Quality, Water Quality Section, Permits & Engineering Unit, PO Box 29535, Raleigh, NC 27626-0535.

## CHAPTER 2 - ENVIRONMENTAL MANAGEMENT

### SUBCHAPTER 2H - PROCEDURES FOR PERMITS: APPROVALS

#### SECTION .0200 - WASTE NOT DISCHARGED TO SURFACE WATERS

##### .0225 CONDITIONS FOR ISSUING GENERAL PERMITS

(a) In accordance with the provisions of G.S. 143-215.1(b)(3) and (d), general permits may be developed by the Division and issued by the Director for categories of activities covered by this Rule. General permits may be

written for categories of activities that involve the same or substantially similar operations, have similar treated waste characteristics, require the same limitations or operating conditions, and require the same or similar monitoring. Each of the general permits shall be issued under G.S. 143-215.1(d). After issuance of a general permit by the Director, persons operating facilities described by the general permit may request coverage under it, and the Director or his designee may grant appropriate certification. All individual operations which receive a "Certificate of Coverage" under a general permit are permitted under the specific general permit for which the coverage was issued. Persons operating facilities covered under general permits developed in accordance with this Rule shall be subject to the same limits, conditions, management practices, enforcement authorities, and rights and privileges as specified in the general permit.

(b) Upon development of a draft general permit, the Director shall publicly notice under G.S. 143-215.4(b)(1) and (2), at least 30 days prior to final action, an intent to issue the general permit. A one time publication of the notice in a newspaper having general circulation in the geographic areas affected by the proposed permit shall be required. The notice shall provide the name, address and phone number of the agency issuing the notice, a brief description of the intended action, and a brief description of the procedures for the formulation of final determinations, including a 30-day comment period and other means by which interested persons may comment upon the determinations.

(c) No provisions in any general permit issued under this Rule shall be interpreted as allowing the permittee to violate state water quality standards or other applicable environmental standards.

(d) To obtain an individual certificate of coverage, a Notice of Intent to be covered by the general permit must be given using forms provided by the Division following the application procedures specified in this Section. If all requirements are met, coverage under the general permit may be granted. If all requirements are not met, an individual permit application and full application review procedure shall be required.

(e) General permits shall be effective for a term not to exceed five years at the end of which the Division may renew them. The Division shall satisfy public notice requirements prior to renewal of general permits. Operators covered by general permits need not submit new Notices of Intent or renewal requests unless so directed by the Division. If the Division chooses not to renew a general permit, all operations covered under that general permit shall be notified to submit applications for individual permits.

(f) Anyone engaged in activities covered by the general permit rules but not permitted in accordance with this Section shall be considered in violation of G.S. 143-215.1.

(g) Any individual covered or considering coverage under a general permit may choose to pursue an individual permit for any operation covered by this Rule.

(h) The Director may require any person, otherwise eligible for coverage under a general permit, to apply for an individual permit by notifying that person that an application is required. Notification shall consist of a written description of the reason(s) for the decision, appropriate permit application forms and application instructions, a statement establishing the required date for submission of the application, and a statement informing the person that coverage by the general permit shall automatically terminate upon issuance of the individual permit. Reasons for requiring application for an individual permit may include:

- (1) the operation is a significant contributor of pollutants;
- (2) conditions at the permitted site change, altering the constituents or characteristics of the wastewater such that the operation no longer qualifies for coverage under a general permit;
- (3) noncompliance with the general permit;
- (4) noncompliance with Division Rules;
- (5) a change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the operation;
- (6) a determination that there has been or is the potential to have a direct discharge of wastewater, sludge or residuals to waters of the state;
- (7) the system has been allowed to deteriorate or leak such that it poses an immediate threat to the environment.

(i) General permits or individual certificate of coverages may be modified, terminated, or revoked and reissued in accordance with the authority and requirements of rules of this Section.

*History Note: Authority G.S. 143-215.1; 143-215.3(a)(1); 143-215.10C; Temporary Adoption Eff. November 8, 1996.*

\* \* \* \* \*

**Rule-making Agency:** EHNR - Coastal Resources Commission

**Rule Citation:** 15A NCAC 7H .0304 and .0305

**Effective Date:** October 10, 1996

**Findings Reviewed and approved by Julian Mann, III**

**Authority for the rule-making:** 113A-107; 113A-113; 113A-113(b)(6); 113A-124

**Reason for Proposed Action:** To designate certain previously vegetated areas that lost vegetation in Hurricane Fran as unvegetated beach areas under 15A NCAC 7H .0304 and to establish procedures for determining the setback measurement lines for these areas under 15A NCAC

7H .0305.

**Comment Procedures:** Comments may be submitted in writing within 60 days after the date of publication of the issue of the North Carolina Register. Written comments may be submitted to Preston Pate, PO Box 769, Morehead City, NC 28557.

## CHAPTER 7 - COASTAL MANAGEMENT

### SUBCHAPTER 7H - STATE GUIDELINES FOR AREAS OF ENVIRONMENTAL CONCERN

#### SECTION .0300 - OCEAN HAZARD AREAS

##### .0304 AECs WITHIN OCEAN HAZARD AREAS

The ocean hazard system of AECs contains all of the following areas:

- (1) Ocean Erodible Area. This is the area in which there exists a substantial possibility of excessive erosion and significant shoreline fluctuation. The seaward boundary of this area is the mean low water line. The landward extent of this area is determined as follows:
  - (a) a distance landward from the first line of stable natural vegetation to the recession line that would be established by multiplying the long-term annual erosion rate times 60, provided that, where there has been no long-term erosion or the rate is less than two feet per year, this distance shall be set at 120 feet landward from the first line of stable natural vegetation. For the purposes of this Rule, the erosion rates shall be those set forth in tables entitled "Long Term Annual Erosion Rates updated through 1986" and approved by the Coastal Resources Commission on July 29, 1988 (except as such rates may be varied in individual contested cases, declaratory or interpretive rulings). The tables are available without cost from any local permit officer or the Division of Coastal Management; and
  - (b) a distance landward from the recession line established in Sub-Item (1)(a) of this Rule to the recession line that would be generated by a storm having a one percent chance of being equaled or exceeded in any given year.
- (2) The High Hazard Flood Area. This is the area subject to high velocity waters (including, but not limited to, hurricane wave wash) in a storm having a one percent chance of being equaled or exceeded in any given year, as identified as zone V1-30 on the flood insurance rate maps of the Federal Insurance Administration, U.S. Depart-

ment of Housing and Urban Development. In the absence of these rate maps, other available base flood elevation data prepared by a federal, state, or other source may be used, provided said data source is approved by the CRC.

(3) Inlet Hazard Area. The inlet hazard areas are natural-hazard areas that are especially vulnerable to erosion, flooding and other adverse effects of sand, wind, and water because of their proximity to dynamic ocean inlets. This area shall extend landward from the mean low water line a distance sufficient to encompass that area within which the inlet will, based on statistical analysis, migrate, and shall consider such factors as previous inlet territory, structurally weak areas near the inlet (such as an unusually narrow barrier island, an unusually long channel feeding the inlet, or an overwash area), and external influences such as jetties and channelization. The areas identified as suggested Inlet Hazard Areas included in the report entitled INLET HAZARD AREAS, The Final Report and Recommendations to the Coastal Resources Commission, 1978, by Loie J. Priddy and Rick Carraway are hereby designated as Inlet Hazard Areas except that the Cape Fear Inlet Hazard as shown on said map shall not extend northeast of the Baldhead Island marina entrance channel. In all cases, this area shall be an extension of the adjacent ocean erodible area and in no case shall the width of the inlet hazard area be less than the width of the adjacent ocean erodible area.

(4) Unvegetated Beach Area. Beach areas within the Ocean Hazard Area where no stable natural vegetation is present may be designated as an unvegetated beach area on either a permanent or temporary basis:

(a) An area appropriate for permanent designation as an unvegetated beach area This is a dynamic area that is subject to rapid unpredictable landform change from wind and wave action. The areas in this category shall be designated following detailed studies by the Coastal Resources Commission. These areas shall be designated on maps approved by the Commission and available without cost from any local permit officer or the Division of Coastal Management.

(b) An area that is suddenly unvegetated as a result of a hurricane or other major storm event may be designated as an unvegetated beach area for a specific period of time. At the expiration of the time specified by the Commission, the area shall return to its pre-storm designation. Areas appropriate for such designation are those in which vegetation has been lost over such a large

land area that extrapolation of the vegetation line under the procedure set out in Rule .0305(e) of this Section is inappropriate.

The Commission designates as temporary unvegetated beach areas those oceanfront areas in New Hanover, Pender, Carteret and Onslow Counties in which the vegetation line as shown on aerial photography dated August 8, 9, and 17, 1996, was destroyed as a result of Hurricane Fran on September 5, 1996. This designation shall continue until such time as stable, natural vegetation has reestablished or until the area is permanently designated as an unvegetated beach area pursuant to Sub-Item 4(a) of this Rule.

*History Note: Authority G.S. 113A-107; 113A-113; 113A-124;*

*Eff. September 9, 1977;*

*Amended Eff. December 1, 1993; November 1, 1988; September 1, 1986; December 1, 1985;*

*Temporary Amendment Eff. October 10, 1996.*

#### **.0305 GENERAL IDENTIFICATION AND DESCRIPTION OF LANDFORMS**

(a) Ocean Beaches. Ocean beaches are lands consisting of unconsolidated soil materials that extend from the mean low water line landward to a point where either:

- (1) the growth of vegetation occurs, or
- (2) a distinct change in slope or elevation alters the configuration of the landform, whichever is farther landward.

(b) Primary Dunes. Primary dunes are the first mounds of sand located landward of the ocean beaches having an elevation equal to the mean flood level (in a storm having a one percent chance of being equaled or exceeded in any given year) for the area plus six feet. The primary dune extends landward to the lowest elevation in the depression behind that same mound of sand (commonly referred to as the dune trough).

(c) Frontal Dunes. The frontal dune is deemed to be the first mound of sand located landward of the ocean beach having sufficient vegetation, height, continuity and configuration to offer protective value.

(d) General Identification. For the purpose of public and administrative notice and convenience, each designated minor development permit-letting agency with ocean hazard areas may designate, subject to CRC approval, a readily identifiable land area within which the ocean hazard areas occur. This designated notice area must include all of the land areas defined in Rule .0304 of this Section. Natural or man-made landmarks may be considered in delineating this area.

(e) "Vegetation Line" means the first line of stable natural vegetation, which shall be used as the reference point for measuring oceanfront setbacks. This line represents the boundary between the normal dry-sand beach,

which is subject to constant flux due to waves, tides, storms and wind, and the more stable upland areas. It is generally located at or immediately oceanward of the seaward toe of the frontal dune or erosion escarpment. In areas where there is no stable natural vegetation present, this line shall be established by connecting or extending the lines from the nearest adjacent vegetation on either side of the site and by extrapolating (by either on-ground observation or by aerial photographic interpretation) to establish the line.

(f) "Erosion Escarpment" means normal vertical drop in the beach profile caused from high tide or storm tide erosion.

(g) Measurement line means the line from which the ocean front setback as described in Rule .0306(a) of this Section Subchapter is measured in the unvegetated beach area of environmental concern as described in Rule .0304(4) .0304(a)(4) of this Subchapter. Section. Procedures for determining the measurement line in areas designated pursuant to Rule .0304(4)(a) of this Section shall be adopted by the Commission for each area where such a line is designated. These procedures shall be available from any local permit officer or the Division of Coastal Management. In areas designated pursuant to Rule .0304(4)(b) of this

Section, the Division of Coastal Management shall establish a measurement line that approximates the location at which the vegetation line is expected to reestablish by:

- (1) determining the distance the vegetation line receded at the closest vegetated site to the proposed development site; and
- (2) locating the line of stable natural vegetation on the most current pre-storm aerial photography of the proposed development site and moving this line landward the distance determined in Subparagraph (g)(1) of this Rule.

The measurement line established pursuant to this process shall in every case be located landward of the average width of the beach as determined from the most current pre-storm aerial photography.

*History Note: Authority G.S. 113A-107; 113A-113(b)(6); 113A-124;*

*Eff. September 9, 1977;*

*Amended Eff. December 1, 1992; September 1, 1986; December 1, 1985; February 2, 1981;*

*Temporary Amendment Eff. October 10, 1996.*

This Section includes the Register Notice citation to Rules approved by the Rules Review Commission (RRC) at its meeting of September 19, 1996 pursuant to G.S. 150B-21.17(a)(1) and reported to the Joint Legislative Administrative Procedure Oversight Committee pursuant to G.S. 150B-21.16. The full text of rules are published below when the rules have been approved by RRC in a form different from that originally noticed in the Register or when no notice was required to be published in the Register. The rules published in full text are identified by an \* in the listing of approved rules. Statutory Reference: G.S. 150B-21.17.

These rules will become effective on the 31st legislative day of the 1997 Regular Session of the General Assembly or a later date if specified by the agency unless a bill is introduced before the 31st legislative day that specifically disapproves the rule. If a bill to disapprove a rule is not ratified, the rule will become effective either on the day the bill receives an unfavorable final action or the day the General Assembly adjourns. Statutory reference: G.S. 150B-21.3.

#### APPROVED RULE CITATION

10 NCAC 41F .0705\*  
10 NCAC 41F .0706  
10 NCAC 41F .0707\*  
10 NCAC 41F .0812  
10 NCAC 41F .0813\*  
10 NCAC 41F .0814\*

#### REGISTER CITATION TO THE NOTICE OF TEXT

11:03 NCR 111  
11:03 NCR 111  
11:03 NCR 112  
11:03 NCR 112  
11:03 NCR 112  
11:03 NCR 112

#### TITLE 10 - DEPARTMENT OF HUMAN RESOURCES

#### CHAPTER 41 - CHILDREN'S SERVICES

#### SUBCHAPTER 41F - LICENSING OF FAMILY FOSTER HOMES

#### SECTION .0700 - STANDARDS FOR LICENSING

##### .0705 CRITERIA FOR SERVICES TO FOSTER FAMILY

(a) Quarterly Visits. Visits with the foster family by agency staff must be made at least on a quarterly basis. Agency staff shall visit with the foster family on at least a quarterly basis. Two of the quarterly visits within the licensing year must shall be made in the foster home for the purpose of discussing with the foster parents matters related to any services needed by the foster family and to ensure that minimum licensing standards continue to be met.

(b) Training related to the responsibilities and rights of the foster family must be provided prior to placement of children in the home and at least annually thereafter.

History Note: Authority G.S. 131D-10.5; 143B-153; Eff. July 1, 1983;

Amended Eff. July 1, 1997; May 1, 1990.

##### .0707 CRIMINAL HISTORIES

An applicant shall not be eligible for licensure if the applicant refuses to consent to any criminal history check

required by G.S. 131D, Art. 1A or if the Division of Social Services determines that the applicant is unfit, based on the criminal history, to have responsibility for the safety and well-being of children.

History Note: Authority G.S. 131D-10.5; 143B-153; Temporary Adoption Eff. January 1, 1996; Eff. April 1, 1997.

#### SECTION .0800 - LICENSING REGULATIONS AND PROCEDURES

##### .0813 CRIMINAL HISTORY CHECKS

The supervising agency shall carry out the following for all foster parents applying for relicensure of a family foster home and new foster parent applicants:

- (1) furnish the written notice as required by G.S. 131D-10.3A(e);
- (2) obtain a signed consent form for a criminal history check and submit the signed consent form to the Division of Social Services;
- (3) obtain two sets of fingerprints on SBI identification cards and forward both sets of fingerprints to the Division of Social Services. Once an individual's fingerprints have been submitted to the Division of Social Services, additional fingerprints shall not be required; and
- (4) conduct a local criminal history check through accessing the Administrative Office of the Courts and the Department of Corrections Inmate/Probation Inquiry Systems and submit the

results of the criminal history checks to the Division of Social Services on the application form.

*History Note: Authority G.S. 131D-10.5; 143B-153; Temporary Adoption Eff. January 1, 1996; Eff. April 1, 1997.*

**.0814 TRAINING REQUIREMENTS**

(a) In order to provide improved services to children and families, each agency shall provide, or cause to be provided, preservice training for all prospective foster parents. Training shall be subject to the specifications of Paragraph (b) of this Rule.

(b) As a condition of licensure for foster parent applicants, each applicant shall successfully complete 30 hours of preservice training. Preservice training shall include the following components:

- (1) General Orientation to Foster Care and Adoption Process;
- (2) Communication Skills;
- (3) Understanding the Dynamics of Foster Care and Adoption Process;
- (4) Separation and Loss;
- (5) Attachment and Trust;
- (6) Child Development;
- (7) Behavior Management;
- (8) Working with Birth Families and Maintaining Connections;
- (9) Lifebook Preparation;
- (10) Planned Moves and the Impact of Disruptions;
- (11) The Impact of Placement on Foster and Adoptive Families;
- (12) Teamwork to Achieve Permanence;
- (13) Cultural Sensitivity;

(14) Confidentiality;

(15) Health and Safety.

(c) Prior to licensure renewal, each foster parent shall successfully complete 10 hours of inservice training. This training may be child-specific or may concern issues relevant to the general population of children in foster care. In order to meet this requirement:

- (1) Each agency shall provide, or cause to be provided, 10 hours of inservice training for foster parents annually.
- (2) Such training shall include subjects that would enhance the skills of foster parents and promote stability for children.
- (3) A foster parent may complete relevant training provided by: a community college, a licensed child placing agency, or other departments of State or county governments and, upon approval by the placing agency, that training shall count toward meeting the requirements specified in this Section.

- (4) Each agency shall document in the foster parent record the type of activity the foster parent has completed in pursuance of this Section.

(d) In order for a foster family caring for a child with HIV (human immunodeficiency virus) or AIDS (acquired immunodeficiency syndrome) to receive the HIV supplemental payment, that family shall attend six hours of advanced medical training annually. This training shall consist of issues relevant to HIV or AIDS. This training shall count toward the training requirements of Paragraph (c) of this Rule.

*History Note: Authority G.S. 143B-153; S.L. 1993, c. 769, s. 25.11; Eff. April 1, 1997.*

**T**his Section contains the agenda for the next meeting of the Rules Review Commission on Thursday, November 21, 1996, 10:00 a.m., at 1307 Glenwood Ave., Assembly Room, Raleigh, NC. Anyone wishing to submit written comment on any rule before the Commission should submit those comments to the RRC staff, the agency, and the individual Commissioners by Monday, November 18, 1996, at 5:00 p.m. Specific instructions and addresses may be obtained from the Rules Review Commission at 919-733-2721. Anyone wishing to address the Commission should notify the RRC staff and the agency at least 24 hours prior to the meeting.

### **RULES REVIEW COMMISSION MEMBERS**

#### **Appointed by Senate**

Vernice B. Howard  
Teresa L. Smallwood  
Charles H. Henry  
Philip O. Redwine - Vice Chairman

#### **Appointed by House**

Bill Graham  
James Mallory, III  
Paul Powell  
Anita White

### **RULES REVIEW COMMISSION MEETING DATES**

November 21, 1996	March 20, 1997
December 19, 1996	April 17, 1997
January 16, 1997	May 15, 1997
February 20, 1997	June 19, 1997

**MEETING DATE: NOVEMBER 21, 1996**

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### **LOG OF FILINGS**

**RULES SUBMITTED: SEPTEMBER 20, 1996 THROUGH OCTOBER 20, 1996**

AGENCY/DIVISION	RULE NAME	RULE	ACTION
<b>DHR/SOCIAL SERVICES COMMISSION</b>			
	Organization and Administration	10 NCAC 41P .0002	Amend
	Placement Services	10 NCAC 41P .0005	Amend
	Adoptive Home Recruitment	10 NCAC 41P .0006	Amend
	Preplacement Assessment	10 NCAC 41P .0008	Amend
	Notification	10 NCAC 41P .0009	Amend
	Services to Adoptive Applicants	10 NCAC 41P .0010	Amend
	Legal Process	10 NCAC 41P .0011	Amend
	Records	10 NCAC 41P .0012	Amend
	Fees	10 NCAC 41P .0013	Adopt
	Availability	10 NCAC 42A .0701	Adopt
	Case Management Activities	10 NCAC 42A .0702	Adopt
	Designated Agencies	10 NCAC 42A .0703	Adopt
	Competency of Staff	10 NCAC 42B .1209	Repeal
	Staff Competency	10 NCAC 42B .1210	Adopt
	Training Program Content	10 NCAC 42B .1211	Adopt
	Resident Assessment	10 NCAC 42B .2402	Adopt
	Resident Care Plan	10 NCAC 42B .2403	Adopt
	Licensed Health Professional	10 NCAC 42B .2404	Adopt
	Cooperation	10 NCAC 42B .2405	Adopt
	Competency of Staff	10 NCAC 42C .2010	Repeal
	Staff Competency	10 NCAC 42C .2011	Adopt
	Training Program	10 NCAC 42C .2012	Adopt

Resident Assessment	10 NCAC 42C .3701	Adopt
Resident Care Plan	10 NCAC 42C .3702	Adopt
Licensed Health Support	10 NCAC 42C .3703	Adopt
Cooperation with Case Managers	10 NCAC 42C .3704	Adopt
Competency of Staff	10 NCAC 42D .1409	Repeal
Staff Competency	10 NCAC 42D .1410	Adopt
Training Program	10 NCAC 42D .1411	Adopt
Resident Assessment	10 NCAC 42D .1827	Adopt
Resident Care Plan	10 NCAC 42D .1828	Adopt
Licensed Health Support	10 NCAC 42D .1829	Adopt
Cooperation with Case Managers	10 NCAC 42D .1830	Adopt
Definitions	10 NCAC 49A .0002	Amend
Initial Interview	10 NCAC 49B .0202	Amend
Prospective Budgeting	10 NCAC 49B .0310	Amend
Changes in Situation	10 NCAC 49B .0502	Amend

**DEHNR/ENVIRONMENTAL MANAGEMENT COMMISSION**

Tar-Pamlico River	15A NCAC 2B .0229	Adopt
Neuse River Basin	15A NCAC 2B .0315	Amend
Miscellaneous Volatile Emissions	15A NCAC 2D .0518	Amend
New Source	15A NCAC 2D .0524	Amend
Prevention of Deterioration	15A NCAC 2D .0530	Amend
Applicability	15A NCAC 2D .0902	Amend
Compliance Schedules	15A NCAC 2D .0907	Repeal
Compliance Schedules	15A NCAC 2D .0909	Amend
Alternative Compliance Schedules	15A NCAC 2D .0910	Repeal
Exception	15A NCAC 2D .0911	Repeal
Compliance Schedule	15A NCAC 2D .0946	Repeal
Stage II Vapor Recovery	15A NCAC 2D .0954	Amend
National Emission Standards	15A NCAC 2D .1110	Amend
Maximum Achievable Control	15A NCAC 2D .1111	Amend
Applicability	15A NCAC 2D .1402	Amend
Compliance Schedules	15A NCAC 2D .1403	Amend
Activities Exempted	15A NCAC 2Q .0102	Amend
Where to Obtain Applications	15A NCAC 2Q .0104	Amend
Confidential Information	15A NCAC 2Q .0107	Amend
Application	15A NCAC 2Q .0507	Amend
Permit Shield	15A NCAC 2Q .0512	Amend
Administrative Permit	15A NCAC 2Q .0514	Amend
Minor Permit	15A NCAC 2Q .0515	Amend
Reopening for Cause	15A NCAC 2Q .0517	Amend

**DEHNR/COASTAL RESOURCES COMMISSION**

Development Initiated	15A NCAC 7H .0104	Amend
AECs in Ocean Hazard Areas	15A NCAC 7H .0304	Amend
General Identification	15A NCAC 7H .0305	Amend
Specific Use Standards	15A NCAC 7H .0308	Amend
General Definitions	15A NCAC 7J .0102	Amend

**DEHNR/WILDLIFE RESOURCES COMMISSION**

Deer	15A NCAC 10B .0203	Amend
Wild Turkey	15A NCAC 10B .0209	Amend
Public Mountain Trout Waters	15A NCAC 10C .0205	Amend
Creel and Size Limits	15A NCAC 10C .0305	Amend
Hunting on Game Lands	15A NCAC 10D .0003	Amend

**DEHNR/DIVISION OF PARKS AND RECREATION**

**RULES REVIEW COMMISSION**

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Fees and Charges	15A NCAC 12B .1206	Adopt
<b>EDUCATION/STANDARDS BOARD FOR PUBLIC SCHOOL ADMINISTRATION</b>		
Definitions	16 NCAC 7 .0101	Adopt
General Information	16 NCAC 7 .0102	Adopt
Exemptions	16 NCAC 7 .0103	Adopt
Program Requirements	16 NCAC 7 .0104	Adopt
Certification Patterns	16 NCAC 7 .0105	Adopt
Standard Examinations	16 NCAC 7 .0106	Adopt
Certificate Renewal	16 NCAC 7 .0107	Adopt
Expired Certificates	16 NCAC 7 .0108	Adopt
Reciprocity in Certification	16 NCAC 7 .0109	Adopt
Temporary Permit	16 NCAC 7 .0110	Adopt
Certificate Suspension	16 NCAC 7 .0111	Adopt
Criminal History Checks	16 NCAC 7 .0112	Adopt
<b>REVENUE/CORPORATE INCOME &amp; FRANCHISE TAX DIVISION</b>		
Doing Business Defined	17 NCAC 5C .0102	Amend
<b>DEPARTMENT OF REVENUE</b>		
Change in Ownership	17 NCAC 7B .0118	Amend
Refunds	17 NCAC 7B .1602	Amend
Refunds to Counties	17 NCAC 7B .1702	Amend
Refunds to Hospitals	17 NCAC 7B .1802	Amend
Rental of Films	17 NCAC 7B .3103	Amend
Commercial Cable Companies	17 NCAC 7B .3106	Amend
Exempt Sales	17 NCAC 7B .4202	Amend
Receipts of Laundries	17 NCAC 7B .4501	Amend
<b>STATE BOARD OF REFRIGERATION EXAMINERS</b>		
Scoring Examinations	21 NCAC 60 .0204	Amend
Requirements	21 NCAC 60 .0207	Amend
Use of License	21 NCAC 60 .0314	Amend
<b>NC CERTIFICATION BOARD FOR SOCIAL WORK</b>		
Examination Fee	21 NCAC 63 .0306	Amend
<b>NC STATE BOARD OF COMMUNITY COLLEGES</b>		
Limitations in Reporting	23 NCAC 2D .0325	Amend
Student Refund	23 NCAC 3A .0113	Adopt

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**RULES REVIEW OBJECTIONS**

<b>BOARD OF DENTAL EXAMINERS</b>			
21 NCAC 16H .0104 - <i>Approved Education and Training Programs</i>		<i>RRRC Objection</i>	09/19/96
<i>Agency Revised Rule</i>		<i>Obj. Removed</i>	10/17/96
21 NCAC 16H .0202 - <i>Specific Permitted Functions of Dental Assistant I</i>		<i>RRRC Objection</i>	09/19/96
<i>Agency Revised Rule</i>		<i>Obj. Removed</i>	10/17/96
<b>ENVIRONMENT, HEALTH, AND NATURAL RESOURCES</b>			
<b>Environmental Management</b>			
15A NCAC 2B .0101 - <i>General Procedures</i>		<i>RRRC Objection</i>	07/18/96
<i>No Response from Agency</i>		<i>Obj. Cont'd</i>	08/15/96
<i>Agency Responded</i>		<i>Obj. Cont'd</i>	09/19/96
<i>Rule Returned to Agency</i>		<i>Obj. Cont'd</i>	09/19/96

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<i>Agency Filed Rule for Codification Over RRC Objection</i>	<i>Eff.</i>	<i>10/01/96</i>
15A NCAC 2B .0103 - Analytical Procedures	<i>RRC Objection</i>	<i>07/18/96</i>
No Response from Agency	<i>Obj. Cont'd</i>	<i>08/15/96</i>
Agency Revised Rule	<i>Obj. Cont'd</i>	<i>09/19/96</i>
Rule Returned to Agency	<i>Obj. Cont'd</i>	<i>09/19/96</i>
<i>Agency Filed Rule for Codification Over RRC Objection</i>	<i>Eff.</i>	<i>10/01/96</i>
15A NCAC 2B .0109 - Waters Affected by Dredge and Fill Activities	<i>RRC Objection</i>	<i>07/18/96</i>
No Response from Agency	<i>Obj. Cont'd</i>	<i>08/15/96</i>
<i>15A NCAC 2B .0201 - Antidegradation Policy</i>	<i>Obj. Removed</i>	<i>09/19/96</i>
No Response from Agency	<i>RRC Objection</i>	<i>07/18/96</i>
Agency Responded	<i>Obj. Cont'd</i>	<i>08/15/96</i>
Rule Returned to Agency	<i>Obj. Cont'd</i>	<i>09/19/96</i>
<i>Agency Filed Rule for Codification Over RRC Objection</i>	<i>Eff.</i>	<i>10/01/96</i>
15A NCAC 2B .0202 - Definitions	<i>RRC Objection</i>	<i>07/18/96</i>
No Response from Agency	<i>Obj. Cont'd</i>	<i>08/15/96</i>
Agency Revised Rule	<i>Obj. Cont'd</i>	<i>09/19/96</i>
Rule Returned to Agency	<i>Obj. Cont'd</i>	<i>09/19/96</i>
<i>Agency Filed Rule for Codification Over RRC Objection</i>	<i>Eff.</i>	<i>10/01/96</i>
15A NCAC 2B .0231 - Wetland Standards (Rule .0231 was Noticed as Rule .0220)	<i>RRC Objection</i>	<i>07/18/96</i>
No Response from Agency	<i>Obj. Cont'd</i>	<i>08/15/96</i>
Agency Responded	<i>Obj. Cont'd</i>	<i>09/19/96</i>
Rule Returned to Agency	<i>Obj. Cont'd</i>	<i>09/19/96</i>
<i>Agency Filed Rule for Codification Over RRC Objection</i>	<i>Eff.</i>	<i>10/01/96</i>
15A NCAC 2C .0211 - Permits	<i>RRC Objection</i>	<i>08/15/96</i>
Agency Revised Rule	<i>Obj. Removed</i>	<i>09/19/96</i>
15A NCAC 2C .0213 - Additional Criteria and Standards Applicable to Class 5 Wells	<i>RRC Objection</i>	<i>08/15/96</i>
Agency Revised Rule	<i>Obj. Removed</i>	<i>09/19/96</i>
15A NCAC 2C .0214 - Abandonment and Change-of-Status of Wells	<i>RRC Objection</i>	<i>08/15/96</i>
Agency Revised Rule	<i>Obj. Removed</i>	<i>09/19/96</i>
15A NCAC 2H .0501 - Purpose	<i>RRC Objection</i>	<i>07/18/96</i>
No Response from Agency	<i>Obj. Cont'd</i>	<i>08/15/96</i>
Agency Responded	<i>Obj. Cont'd</i>	<i>09/19/96</i>
Rule Returned to Agency	<i>Obj. Cont'd</i>	<i>09/19/96</i>
<i>Agency Filed Rule for Codification Over RRC Objection</i>	<i>Eff.</i>	<i>10/01/96</i>
15A NCAC 2H .0502 - Application	<i>RRC Objection</i>	<i>07/18/96</i>
No Response from Agency	<i>Obj. Cont'd</i>	<i>08/15/96</i>
Agency Responded	<i>Obj. Cont'd</i>	<i>09/19/96</i>
Rule Returned to Agency	<i>Obj. Cont'd</i>	<i>09/19/96</i>
<i>Agency Filed Rule for Codification Over RRC Objection</i>	<i>Eff.</i>	<i>10/01/96</i>
15A NCAC 2H .0503 - Public Notice	<i>RRC Objection</i>	<i>07/18/96</i>
No Response from Agency	<i>Obj. Cont'd</i>	<i>08/15/96</i>
Agency Responded	<i>Obj. Cont'd</i>	<i>09/19/96</i>
Rule Returned to Agency	<i>Obj. Cont'd</i>	<i>09/19/96</i>
<i>Agency Filed Rule for Codification Over RRC Objection</i>	<i>Eff.</i>	<i>10/01/96</i>
15A NCAC 2H .0504 - Hearing	<i>RRC Objection</i>	<i>07/18/96</i>
No Response from Agency	<i>Obj. Cont'd</i>	<i>08/15/96</i>
Agency Responded	<i>Obj. Cont'd</i>	<i>09/19/96</i>
Rule Returned to Agency	<i>Obj. Cont'd</i>	<i>09/19/96</i>
<i>Agency Filed Rule for Codification Over RRC Objection</i>	<i>Eff.</i>	<i>10/01/96</i>
15A NCAC 2H .0506 - Criteria for Review of Applications	<i>RRC Objection</i>	<i>07/18/96</i>
No Response from Agency	<i>Obj. Cont'd</i>	<i>08/15/96</i>
Agency Revised Rule	<i>Obj. Cont'd</i>	<i>09/19/96</i>
Rule Returned to Agency	<i>Obj. Cont'd</i>	<i>09/19/96</i>
<i>Agency Filed Rule for Codification Over RRC Objection</i>	<i>Eff.</i>	<i>10/01/96</i>
15A NCAC 2H .0507 - Issuance of Certification	<i>RRC Objection</i>	<i>07/18/96</i>
No Response from Agency	<i>Obj. Cont'd</i>	<i>08/15/96</i>

<i>Agency Responded</i>	<i>Obj. Cont'd</i>	<i>09/19/96</i>
<i>Rule Returned to Agency</i>	<i>Obj. Cont'd</i>	<i>09/19/96</i>
<i>Agency Filed Rule for Codification Over RRC Objection</i>	<i>Eff. 10/01/96</i>	

#### **Commission for Health Services**

<i>15A NCAC 13C .0302 - General Provisions</i>	<i>RRRC Objection</i>	<i>09/19/96</i>
<i>No Response from Agency</i>	<i>Obj. Cont'd</i>	<i>10/17/96</i>
<i>15A NCAC 13C .0304 - Minimum Qualifications for Registered Env. Consultants</i>	<i>RRRC Objection</i>	<i>09/19/96</i>
<i>No Response from Agency</i>	<i>Obj. Cont'd</i>	<i>10/17/96</i>
<i>15A NCAC 13C .0306 - Technical Standards for Registered Environmental Consultants</i>	<i>RRRC Objection</i>	<i>09/19/96</i>
<i>No Response from Agency</i>	<i>Obj. Cont'd</i>	<i>10/17/96</i>
<i>15A NCAC 18A .3106 - Abatement</i>	<i>RRRC Objection</i>	<i>07/18/96</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>08/15/96</i>

#### **Wildlife Resources Commission**

<i>15A NCAC 10F .0104 - Certificate of Number</i>	<i>RRRC Objection</i>	<i>07/18/96</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>08/15/96</i>
<i>15A NCAC 10F .0105 - Numbering Pattern</i>	<i>RRRC Objection</i>	<i>07/18/96</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>08/15/96</i>

#### **HUMAN RESOURCES**

##### **Facility Services**

<i>10 NCAC 3R .0305 - Filing Applications</i>		
<i>Rule Withdrawn by Agency</i>		<i>10/17/96</i>
<i>10 NCAC 3R .1003 - State Medical Facilities Plan</i>		
<i>Rule Withdrawn by Agency</i>		<i>10/17/96</i>
<i>10 NCAC 3R .1127 - Required Staffing and Staff Training</i>		
<i>Rule Withdrawn by Agency</i>		<i>10/17/96</i>
<i>10 NCAC 3R .2410 - Information Required of Applicant</i>	<i>RRRC Objection</i>	<i>10/17/96</i>
<i>10 NCAC 3R .2412 - Staffing and Staff Training</i>	<i>RRRC Objection</i>	<i>10/17/96</i>
<i>10 NCAC 3R .2510 - Information Required of Applicant</i>	<i>RRRC Objection</i>	<i>10/17/96</i>
<i>10 NCAC 3R .2512 - Staffing and Staff Training</i>	<i>RRRC Objection</i>	<i>10/17/96</i>
<i>10 NCAC 3R .2612 - Information Required of Applicant</i>	<i>RRRC Objection</i>	<i>10/17/96</i>
<i>10 NCAC 3R .3030 - Facility and Service Need Determinations</i>	<i>RRRC Objection</i>	<i>10/17/96</i>
<i>10 NCAC 3R .3040 - Reallocations and Adjustments</i>	<i>RRRC Objection</i>	<i>10/17/96</i>
<i>10 NCAC 3R .3050 - Policies</i>	<i>RRRC Objection</i>	<i>10/17/96</i>
<i>10 NCAC 3U .0102 - Definitions</i>	<i>RRRC Objection</i>	<i>10/17/96</i>
<i>10 NCAC 3U .0704 - Preservice Requirements for Administrators</i>	<i>RRRC Objection</i>	<i>10/17/96</i>
<i>10 NCAC 3U .0710 - Preservice Requirements for Teachers and Aides</i>	<i>RRRC Objection</i>	<i>10/17/96</i>
<i>10 NCAC 3U .2701 - Application for Permits</i>	<i>RRRC Objection</i>	<i>10/17/96</i>
<i>10 NCAC 3U .2702 - Criminal Record Check Requirements for Child Care Providers</i>	<i>RRRC Objection</i>	<i>10/17/96</i>
<i>10 NCAC 3U .2703 - Criminal Record Check Reqs for Current Child Care Providers</i>	<i>RRRC Objection</i>	<i>10/17/96</i>
<i>10 NCAC 3U .2704 - Criminal Record Check Reqs for Nonregistered Home Providers</i>	<i>RRRC Objection</i>	<i>10/17/96</i>

##### **Social Services Commission**

<i>10 NCAC 41F .0707 - Criminal Histories</i>	<i>RRRC Objection</i>	<i>07/18/96</i>
<i>No Response from Agency</i>	<i>Obj. Cont'd</i>	<i>08/15/96</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>09/19/96</i>
<i>10 NCAC 41F .0813 - Criminal History Checks</i>	<i>RRRC Objection</i>	<i>07/18/96</i>
<i>No Response from Agency</i>	<i>Obj. Cont'd</i>	<i>08/15/96</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>09/19/96</i>
<i>10 NCAC 41F .0814 - Training Requirements</i>	<i>RRRC Objection</i>	<i>07/18/96</i>
<i>No Response from Agency</i>	<i>Obj. Cont'd</i>	<i>08/15/96</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>09/19/96</i>

**INSURANCE**

11 NCAC 20 .0101 - Definitions	<i>RRRC Objection</i>	08/15/96
Agency Revised Rule	<i>Obj. Removed</i>	09/19/96
11 NCAC 20 .0402 - Organization Structure	<i>RRRC Objection</i>	08/15/96
Agency Revised Rule	<i>Obj. Removed</i>	09/19/96
11 NCAC 20 .0404 - Application	<i>RRRC Objection</i>	08/15/96
Agency Revised Rule	<i>Obj. Removed</i>	09/19/96
11 NCAC 20 .0406 - Provider Files	<i>RRRC Objection</i>	08/15/96
Agency Revised Rule	<i>Obj. Removed</i>	09/19/96
11 NCAC 20 .0501 - Program	<i>RRRC Objection</i>	08/15/96
Agency Revised Rule	<i>Obj. Removed</i>	09/19/96
11 NCAC 20 .0502 - Structure	<i>RRRC Objection</i>	08/15/96
Agency Revised Rule	<i>Obj. Removed</i>	09/19/96
11 NCAC 20 .0505 - Quality of Care Complaints	<i>RRRC Objection</i>	08/15/96
Agency Revised Rule	<i>Obj. Removed</i>	09/19/96
11 NCAC 20 .0701 - Accessibility of Providers	<i>RRRC Objection</i>	08/15/96
Agency Withdrew Rule	<i>Obj. Cont'd</i>	09/19/96

**EXAMINERS FOR NURSING HOME ADMINISTRATORS**

21 NCAC 37H .0102 - Continuing Education Programs of Study	<i>RRRC Objection</i>	07/18/96
Agency Revised Rule	<i>Obj. Removed</i>	08/15/96

**PSYCHOLOGY BOARD**

21 NCAC 54 .1901 - Types	<i>RRRC Objection</i>	08/15/96
Agency Revised Rule	<i>Obj. Removed</i>	09/19/96

**REVENUE**

17 NCAC 1C .0504 - EFT General Requirements	<i>RRRC Objection</i>	08/15/96
Agency Revised Rule	<i>Obj. Removed</i>	09/19/96

**BOARD FOR LICENSING OF SOIL SCIENTISTS**

21 NCAC 69 .0102 - Duties of Officers	<i>RRRC Objection</i>	09/19/96
Agency Revised Rule	<i>Obj. Removed</i>	10/17/96
21 NCAC 69 .0302 - Definitions	<i>RRRC Objection</i>	09/19/96
Agency Revised Rule	<i>Obj. Removed</i>	10/17/96
21 NCAC 69 .0303 - Requirements	<i>RRRC Objection</i>	09/19/96
Agency Revised Rule	<i>Obj. Removed</i>	10/17/96
21 NCAC 69 .0304 - Units	<i>RRRC Objection</i>	09/19/96
Agency Revised Rule	<i>Obj. Removed</i>	10/17/96
21 NCAC 69 .0305 - Determination of Credit	<i>RRRC Objection</i>	09/19/96
Agency Revised Rule	<i>Obj. Removed</i>	10/17/96
21 NCAC 69 .0307 - Exemptions	<i>RRRC Objection</i>	09/19/96
Agency Revised Rule	<i>Obj. Removed</i>	10/17/96
21 NCAC 69 .0401 - Code of Professional Conduct	<i>RRRC Objection</i>	09/19/96
Agency Revised Rule	<i>Obj. Removed</i>	10/17/96
21 NCAC 69 .0402 - Rules of Conduct of Advertising	<i>RRRC Objection</i>	09/19/96
Agency Revised Rule	<i>Obj. Removed</i>	10/17/96

**TRANSPORTATION****Division of Highways**

19A NCAC 2D .1102 - Definitions	<i>RRRC Objection</i>	08/15/96
Agency Revised Rule	<i>Obj. Removed</i>	09/19/96
19A NCAC 2D .1108 - Goals	<i>RRRC Objection</i>	08/15/96
Agency Revised Rule	<i>Obj. Removed</i>	09/19/96
19A NCAC 2D .1111 - Performance Related Replacement of Eligible Firms	<i>RRRC Objection</i>	08/15/96
Agency Revised Rule	<i>Obj. Removed</i>	09/19/96

**Division of Motor Vehicles**

*19A NCAC 3E .0511 - Registration of Interstate Authority  
Agency Revised Rule*

*RRC Objection* 09/19/96  
*Obj. Removed* 10/17/96

**Public Transportation and Rail Division**

*19A NCAC 6B .0412 - Procurements  
Agency Revised Rule*

*RRC Objection* 08/15/96  
*Obj. Removed* 09/19/96

**T**his Section contains the full text of some of the more significant Administrative Law Judge decisions along with an index to all recent contested cases decisions which are filed under North Carolina's Administrative Procedure Act. Copies of the decisions listed in the index and not published are available upon request for a minimal charge by contacting the Office of Administrative Hearings, (919) 733-2698.

**OFFICE OF ADMINISTRATIVE HEARINGS**

*Chief Administrative Law Judge*  
JULIAN MANN, III

*Senior Administrative Law Judge*  
FRED G. MORRISON JR.

**ADMINISTRATIVE LAW JUDGES**

Brenda B. Becton  
Sammie Chess Jr.  
Beecher R. Gray  
Meg Scott Phipps

Robert Roosevelt Reilly Jr.  
Dolores Nesnow Smith  
Thomas R. West

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
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Cole Entertainment, Inc. v. Alcoholic Beverage Control Commission	95 ABC 0917	West	08/21/96	11:12 NCR 1027
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Alcoholic Beverage Control Commission v. Maria Virginia Tramontano	95 ABC 1200	West	04/23/96	
Alcoholic Beverage Control Commission v. Huffman Oil Co., Inc.	95 ABC 1251	West	04/03/96	11:03 NCR 166
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Alcoholic Beverage Control Commission v. E.K.'s II, Inc. Carl E. Collins	95 ABC 1458	Chess	08/12/96	
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Alcoholic Beverage Control Commission v. Well Informed, Inc.	96 ABC 0016	Chess	05/28/96	
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George Wright and Alice Ramsuer v. Alcoholic Beverage Control Comm.	96 ABC 0058	Becton	04/16/96	
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Alcoholic Beverage Control Commission v. Robert Montgomery McKnight	96 ABC 0135	Phipps	05/09/96	
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Alcoholic Beverage Control Commission v. C.N.H. Enterprises, Inc.	96 ABC 0232	Beeton	07/09/96	
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Alcoholic Beverage Control Commission v. Beroth Oil Company	96 ABC 0447	Morrison	08/30/96	11:13 NCR 1085
Alcoholic Beverage Control Commission v. Beroth Oil Company	96 ABC 0448	Morrison	08/30/96	
Alcoholic Beverage Control Commission v. Beroth Oil Company	96 ABC 0449	Morrison	08/30/96	
Alcoholic Beverage Control Commission v. Beroth Oil Company	96 ABC 0450	Morrison	08/30/96	
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Alcoholic Beverage Control Comm. v. Centergrove Entertainment Eat.	96 ABC 0583	Reilly	08/12/96	
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Robert F. Bronsdon v. Crime Victims Compensation Commission	95 CPS 1216	Chess	05/28/96	
Helen B. Hunter-Reid v. Crime Victims Compensation Commission	95 CPS 1336	Nesnow Smith	03/29/96	11:02 NCR 93
Deborah C. Passarelli v. Crime Victims Compensation Commission	95 CPS 1399	Reilly	07/18/96	11:09 NCR 814
Kenneth Saunders v. Victims Compensation Commission	95 CPS 1445	Chess	03/26/96	
Franklin McCoy Jones v. Crime Victims Compensation Commission	96 CPS 0056	Nesnow Smith	07/03/96	
Ruby H. Ford v. Crime Victims Compensation Commission	96 CPS 0110	Reilly	04/18/96	
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<b>ENVIRONMENT, HEALTH, AND NATURAL RESOURCES</b>				
Gribble & Assoc. & Four Seasons Car Wash v. EHNR	95 EHR 0576	Gray	04/25/96	
Wilton Evans v. Environment, Health, & Natural Resources	95 EHR 0843	Reilly	07/17/96	
David Martin Shelton v. Rockingham County Dept/Public Health, EHNR	95 EHR 0941	West	05/01/96	
Kinston Urological Associates, P.A. v. N.C. Cancer Program	95 EHR 1198* <sup>2</sup>	Nesnow Smith	03/27/96	11:02 NCR 97
Kinston Urological Associates, P.A. v. N.C. Cancer Program	95 EHR 1199* <sup>2</sup>	Nesnow Smith	03/27/96	11:02 NCR 97
Elsie & Tony Cecchini v. Environment, Health, & Natural Resources	95 EHR 1240	Reilly	04/22/96	
United Organica Corporation v. Environment, Health, & Natural Res.	96 EHR 0064	Nesnow Smith	07/01/96	
Gerald Mac Clamrock v. Environment, Health, & Natural Resources	96 EHR 0168	Phipps	05/06/96	
John Milazzo v. Environment, Health, & Natural Resources	96 EHR 0644	Reilly	08/13/96	
Wayne Marshall, Pres. Metro Area Dev., Inc. v. EHNR	96 EHR 0826	West	10/01/96	
David J. Mohn v. Environment, Health, & Natural Resources	96 EHR 0947	Nesnow Smith	10/04/96	

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<b><i>Coastal Resources</i></b>				
Martin W. Synger v. Division of Coastal Management	95 EHR 1006	Chess	05/13/96	
J. E. Smith Construction Co. v. Division of Coastal Management	96 EHR 0074	Nesnow Smith	02/23/96	
Theodore D. Barria v. Town of Long Beach, NC & Coastal Mgmt, EHNR	96 EHR 0277	West	05/09/96	
<b><i>Environmental Health</i></b>				
Forest Gate Motel v. Environment, Health, and Natural Resources	96 EHR 0076	West	06/17/96	
Paradise Ridge Home Owners by Anne Norburn v. EHNR, Env. Health	96 EHR 0162	Phipps	05/06/96	
<b><i>Environmental Management</i></b>				
Frank A. Corriher & Sons Well Drilling, Inc. v. Env. Mgmt., EHNR	95 EHR 0048	Phipps	09/20/96	11:14 NCR 1191
Herman E. Smith v. Division of Environmental Management	95 EHR 0962	West	04/30/96	
Conover Lumber Co., Inc. v. EHNR, Division of Environmental Mgmt.	95 EHR 1081	Reilly	04/12/96	
City of Reidsville, a Municipal Corp. v. EHNR, Environmental Mgmt.	95 EHR 1335	Gray	10/01/96	11:15 NCR 1249
Jack West d/b/a Jack West Tree Service v. Environmental Mgmt. Comm.	95 EHR 1421	Morrison	04/08/96	
The Smithfield Packing Co., Inc., v. EHNR, Environmental Mgmt.	95 EHR 1474	West	07/03/96	
and				
Citizens for Clean Industry, Inc. and Bladen Environment				
Rayco Utilities, Inc. v. EHNR, Division of Environmental Management	96 EHR 0367	Becton	10/04/96	
Clover M Farms, Inc. v. EHNR, Division of Environmental Management	96 EHR 0405	Becton	06/10/96	
Providence Glen Associates v. Environmental Management, EHNR	96 EHR 0648	Becton	08/12/96	
<b><i>Land Resources</i></b>				
K&G Properties, Inc. v. EHNR, Division of Land Resources	95 EHR 1078	Nesnow Smith	03/25/96	
<b><i>Marine Fisheries</i></b>				
Robert I. Swinson, Sr. v. EHNR, Health & Nat. Res., Marine Fisheries	95 EHR 0320	Chess	03/29/96	11:03 NCR 168
Grayden L. Fulcher and Michael Styron, Sr. v. Div. of Marine Fisheries	96 EHR 0003	Reilly	03/06/96	
Johnny R. Stotesberry v. Marine Fisheries Commission	96 EHR 0072	Gray	08/19/96	11:11 NCR 955
<b><i>Radiation Protection</i></b>				
Marsha L. Powell v. EHNR, Division of Radiation Protection	96 EHR 1116	Nesnow Smith	10/10/96	
<b><i>Solid Waste Management</i></b>				
R. Donald Phillips v. EHNR, Solid Waste Management Division	95 EHR 1190* <sup>4</sup>	Gray	05/22/96	
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<b><i>WIC Program</i></b>				
Lazelle Marks v. EHNR, Division of Maternal and Child Health	95 EHR 0870	West	03/27/96	
Hani Sader v. Nutrition Services, Div/Maternal & Child Health, EHNR	96 EHR 0054	West	05/22/96	
Bob's Quick Mart, Bobby D. Braswell v. Env., Health, & Natural Res.	96 EHR 0091	Nesnow Smith	04/02/96	
Larry E. Mis v. USDA-Food/Cons Svc, Cory Menees-WIC Prog., EHNR	96 EHR 0164	Phipps	03/19/96	
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Jamil M. Saleh v. Dept. of Environment, Health, & Natural Resources	96 EHR 0634	Phipps	09/04/96	
Khaled M. Alzer v. Dept. of Environment, Health, & Natural Resources	96 EHR 0721	Reilly	07/30/96	
<b><i>EQUAL EMPLOYMENT OPPORTUNITIES</i></b>				
Marsha Dianne McKoy v. DHR, DMH/DD/SAS, Caswell Center	90 EEO 0379	Chess	10/14/96	
Carl D. Davis v. Department of Correction	91 EEO 1101	Nesnow Smith	05/06/96	
<b><i>HUMAN RESOURCES</i></b>				
Cassandra M. Deshazo v. Christine E. Carroll, Chf Chld Abuse/Neg. Sec.	95 DHR 1410	Phipps	03/28/96	
Medicus Robinson v. Department of Human Resources	96 DHR 0167	Nesnow Smith	04/12/96	
<b><i>Division of Child Development</i></b>				
Molly Fallin v. Department of Human Resources	94 DHR 0872* <sup>3</sup>	Gray	05/15/96	
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Iola Roberson v. DHR, Division of Child Development	95 DHR 1244	Gray	05/16/96	
Zannie M. Allen v. DHR, Division of Child Development	96 DHR 0304	Gray	08/15/96	
<i>Division of Facility Services</i>				
Eloise Brown v. Dept. of Human Resources, Division of Facility Services	95 DHR 1002	Phipps	03/07/96	
Harry Martin Bastian v. DHR, Division of Facility Services	96 DHR 0287	West	08/21/96	
Community Care #2 v. DHR, Division of Facility Services	96 DHR 0934	Becton	10/16/96	
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<i>Certificate of Need Section</i>				
Nash Hospitals, Inc. v. DHR, Div/Facility Services, Cert. of Need Sect.	95 DHR 1176*	Phipps	05/23/96	11:06 NCR 389
Pitt Cty Mem. Hospital, Inc. v. DHR, Div/Facility Sries, Cert/Need Sect.	95 DHR 1177*	Phipps	05/23/96	11:06 NCR 389
<i>Group Care Licensure Section</i>				
Alex L. McCall v. DHR, Div/Facility Svcs, Group Care Licensure Sec.	95 DHR 1456	Nesnow Smith	03/26/96	
DHR, Facility Services, Group Care Licensure Sect. v. Petrova Evans	96 DHR 0544	Phipps	08/21/96	
Leola Barnes, Shaw Family Care v. DHR, Fac. Svcs, Group Care Lic.	96 DHR 0626	West	10/01/96	
Gracelane Rest Home v. Group Care Lic. Section, Div. of Soc. Svcs.	96 DHR 0944	Becton	10/16/96	
<i>Medical Facilities Licensure Section</i>				
Deborah Reddick v. Department of Human Resources	96 DHR 0240	Reilly	06/18/96	
Stacy Yvette Franklin v. Facility Services, Medical Facilities Lic. Sec.	96 DHR 0358	Morrison	05/16/96	
<i>Division of Medical Assistance</i>				
Judy Malcuit, Re Melissa Malcuit v. DHR, Div. of Medical Assistance	96 DHR 0129	Gray	06/12/96	
Durham Reg. Hsptl, Behavioral Hlth Svcs. v. Medical Assistance, DHR	96 DHR 0637	West	09/20/96	
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<i>Division of Social Services</i>				
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Rozena Chambliss v. Department of Human Resources	95 DHR 1044	Nesnow Smith	03/12/96	
Addie & Major Short v. Department of Human Resources	95 DHR 1063	Morrison	03/19/96	
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William G. Fisher v. DHR, Div. of Social Services, Prog Integrity Branch	95 DHR 1234	Morrison	03/19/96	
Verna F. Nunn v. Department of Human Resources	95 DHR 1330	Gray	04/11/96	
Nancy Hooker, Helen Tyndall v. Department of Human Resources	96 DHR 0155	Gray	04/26/96	
<i>Child Support Enforcement Section</i>				
Donald E. Rideout Jr. v. Department of Human Resources	95 CSE 0952	Reilly	04/18/96	
Christopher F. Roakea v. Department of Human Resources	95 CSE 1131	Becton	05/03/96	
Claude Eure Jr. v. Department of Human Resources	95 CSE 1155	Phipps	06/12/96	
Richard R. Fox, Sr. v. Department of Human Resources	95 CSE 1169	Becton	03/19/96	
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David Lee Grady v. Department of Human Resources	95 CSE 1218	Morrison	03/26/96	
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James Joseph Gallagher v. Department of Human Resources	95 CSE 1280	Chess	03/19/96	
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Derrick L. Conyers v. Department of Human Resources	95 CSE 1308	Reilly	03/13/96	
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Charles F. Moore v. Department of Human Resources	95 CSE 1369	Chess	03/27/96	
Daniel Leslie Baker v. Department of Human Resources	95 CSE 1373	Morrison	03/12/96	
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John L. Pike v. Department of Human Resources	95 CSE 1376	Nesnow Smith	03/21/96	
Wm. R. Evans v. Department of Human Resources	95 CSE 1377	Becton	03/11/96	
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Cynthia Pinder v. Department of Human Resources	95 CSE 1406	Becton	03/11/96	
Rhonnie J. Williams v. Department of Human Resources	95 CSE 1407	Chess	05/06/96	
Ramon Domenech v. Department of Human Resources	95 CSE 1408	Phipps	03/11/96	
Lennard J. Watson v. Department of Human Resources	95 CSE 1414	Mann	08/23/96	
Dennis L. McNeill v. Department of Human Resources	95 CSE 1435	Becton	03/13/96	
Tony A. Rogers v. Department of Human Resources	95 CSE 1436	Chess	05/16/96	
Rick E. Atkins v. Department of Human Resources	95 CSE 1437	Phipps	04/01/96	
Timothy A. Ratley (Jeanes) v. Department of Human Resources	95 CSE 1465	Morrison	03/26/96	
Richard E. Reader v. Department of Human Resources	95 CSE 1469	Nesnow Smith	04/29/96	
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Reginald B. Bratton Sr. v. Department of Human Resources	96 CSE 0002	Mann	08/23/96	
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Donald L. Carr, Jr. v. Department of Human Resources	96 CSE 0200	West	05/30/96	
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Christopher F. Byrne v. Department of Human Resources	96 CSE 0336	Chess	06/26/96	
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Dioni Delvalle, II v. Department of Human Resources	96 CSE 0407	Chess	07/17/96	
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Terry Sealey v. Department of Human Resources	96 CSE 0430	Phipps	05/29/96	
Jackie L. Kopecky v. Department of Human Resources	96 CSE 0431	Mann	06/05/96	
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Carl S. McNair v. Department of Human Resources	96 CSE 0568	Becton	06/24/96	
David Agure v. Department of Human Resources	96 CSE 0580	Chess	06/13/96	
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Mary R. Mahon v. Department of Human Resources	95 DCS 1137*	Chess	06/11/96	
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Carol M. Hall v. Teachers & State Employees Comp. Major Medical Plan	95 INS 1141	Phipps	04/01/96	
Arthur Wayne Dempsey v. Department of Insurance	95 INS 1255	Nesnow Smith	04/22/96	
Deborah B. Beavers v. Teachers & St. Emp. Comp. Major Med. Plan	95 INS 1411	Nesnow Smith	05/10/96	11:05 NCR 308
Nadia A. Hakim v. Department of Insurance	95 INS 1422	Nesnow Smith	03/26/96	
Kathleen D. Jarvis v. Teachers & St. Emp. Comp. Major Med. Plan	96 INS 0075	Morrison	10/16/96	
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Wendy Atwood v. Department of Justice (Company Police Program)	96 DOJ 0111	Chess	08/07/96	
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*Education and Training Standards Division*

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Charles Henry Daniels v. Criml. Justice Ed. & Training Stds. Comm.	95 DOJ 1070	West	06/12/96	
Valerie Maxine Brewington v. Criml. Justice Ed. & Training Stds. Comm.	95 DOJ 1129	Nesnow Smith	04/12/96	
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Carlton Gerald v. Criminal Justice Ed. & Training Stds. Comm.	96 DOJ 0432	Becton	08/07/96	
Woodrow Andrew Clark v. Criminal Justice Ed. & Training Stds. Comm.	96 DOJ 0515	West	10/07/96	
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Robert A. Gibson v. Private Protective Services Board	96 DOJ 0386	Nesnow Smith	07/03/96	
Jimmy D. Matthews v. Private Protective Services Board	96 DOJ 0676	Reilly	07/11/96	
Johnnie Lee King v. Private Protective Services Board	96 DOJ 0677	Reilly	07/11/96	
Thomas R. Harris v. Private Protective Services Board	96 DOJ 0761	Reilly	07/11/96	
Private Protective Services Board v. Henry E. Byrd, Jr.	96 DOJ 0796	Mann	08/19/96	
Larry Boggs v. Private Protective Services Board	96 DOJ 0797	Morrison	10/10/96	
Private Protective Services Board v. Charles T. Mathis	96 DOJ 0798	Mann	08/27/96	
Private Protective Services Board v. Ricky C. Mullinax	96 DOJ 0800	Becton	10/04/96	
Private Protective Services Board v. Michael A. Smith	96 DOJ 0801	Becton	10/09/96	
<b>MEDICAL BOARD</b>				
Medical Board v. Martin A. Hatcher, M.D.	92 BME 0510	Gray	06/28/96	11:08 NCR 555
<b>PUBLIC INSTRUCTION</b>				
Lavern K. Suggs v. NC Board of Education	95 EDC 0383	Nesnow Smith	03/13/96	11:01 NCR 50
J.T.S. & T.S., Parents of E.M.S. v. Chapel Hill-Carrboro City Schl. Sys.	95 EDC 1194	Mann	04/12/96	
L.O. v. Charlotte-Mecklenburg Board of Education	96 EDC 0285	Mann	05/31/96	
Candyce Ewanda Newsome v. Hertford County Board of Education	96 EDC 0344	Chess	05/15/96	
W. and G.B., on Behalf of C.B. v. Winston-Salem/Forsyth Cty. Schools	96 EDC 0349	Mann	09/03/96	
Cyvonne Rush Bryant v. NC State Board of Education	96 EDC 0591	Becton	09/11/96	
Steve Wright Brown v. State Board of Education	96 EDC 0593	Reilly	10/11/96	
Blaise Malveau v. Cumberland County Board of Education	96 EDC 0613	Chess	08/14/96	
Blaise Malveau v. Cumberland County Board of Education	96 EDC 0614	Chess	08/14/96	
John Barlow v. Watauga County Board of Education	96 EDC 0623	Reilly	07/24/96	
John L. Archer v. Department of Public Instruction	96 EDC 0678	Nesnow Smith	08/02/96	
Pamela F. Cummings v. Department of Public Instruction	96 EDC 0742	Nesnow Smith	08/16/96	
Susie Whitley/Brandon Whitley v. Charlotte-Mecklenburg Bd. of Ed.	96 EDC 0964	Chess	09/17/96	
Michael Wayne Geter v. Charlotte-Mecklenburg School Board	96 EDC 1036	West	09/23/96	
<b>STATE PERSONNEL</b>				
<i>Department of Administration</i>				
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Jonathan L. Fann v. Department of Administration, Admin. Personnel	96 OSP 0042	Gray	05/24/96	
Carlton Gerald v. State Capitol Police, Department of Administration	96 OSP 0116	Gray	04/25/96	
<i>Administrative Office of the Court</i>				
Ethel R. Tyson v. NC Judicial Dept., Administrative Office of the Court	96 OSP 0080	Nesnow Smith	03/15/96	
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Janice S. Walton v. Appalachian St University, Claude Cooper, Bill Ragan	96 OSP 0062	West	03/13/96	
Janice S. Carroll v. Appalachian St University, Claude Cooper, Bill Ragan	96 OSP 0063	West	03/07/96	
Theresa Louise Whittington v. Appalachian State University	96 OSP 0350	Nesnow Smith	10/09/96	
<i>A &amp; T State University</i>				
Joey M. Carey v. A & T State University	96 OSP 0393	West	10/10/96	
<i>Caldwell County</i>				
Blake C. Pace v. Caldwell County	96 OSP 0047	Morrison	04/01/96	
<i>NC Central University</i>				

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Francina Y. Tate v. Chancellor Julius L. Chambers, NC Central Univ. Renee Lynch v. NC Central University	95 OSP 1432 95 OSP 1461	Nesnow Smith Nesnow Smith	04/22/96 10/03/96	11:15 NCR 1255
<b><i>Central North Carolina School for the Deaf</i></b>				
Felicia S. Milton v. Central North Carolina School for the Deaf	95 OSP 1241	Chess	05/17/96	
<b><i>Department of Correction</i></b>				
Haydee Craver v. Department of Correction, Pender Correctional Inst. Gregory Allen Jones v. Department of Correction, Supt. Bonnie Boyette Carolyn Cheek v. Department of Correction Calvia L. Hill v. Department of Correction, McCain Correctional Hospital Alisha Louise Staley v. Randolph Correctional Center Brenda Propat v. Foothills Correctional Institution Delon D. Solomon v. Department of Correction Alisha Louise Staley v. Randolph Correctional Center Haydee C. Craver v. Department of Correction, Christopher Phillips Dwight Taylor, Mike Estep, Jackie Boone, Robert Pitman, Jeffery Clark v. Department of Correction Dwight Taylor, Mike Estep, Jackie Boone, Robert Pitman, Jeffery Clark v. Department of Correction Dwight Taylor, Mike Estep, Jackie Boone, Robert Pitman, Jeffery Clark v. Department of Correction Dwight Taylor, Mike Estep, Jackie Boone, Robert Pitman, Jeffery Clark v. Department of Correction Dwight Taylor, Mike Estep, Jackie Boone, Robert Pitman, Jeffery Clark v. Department of Correction Rebecca A. Faison v. Department of Correction for Women Calvia L. Hill v. Department of Correction, McCain Correctional Hospital Tony R. Broffman v. Department of Correction Mary Hargraves v. Department of Correction Michael S. Doe v. Caswell Center Timothy L. Willis v. Caswell Correctional Center Alisha Louise Staley v. Randolph Correctional Center	95 OSP 1046 95 OSP 1290 95 OSP 1441 95 OSP 1460 96 OSP 0092 96 OSP 0199 96 OSP 0258 96 OSP 0261 96 OSP 0348 96 OSP 0372* <sup>8</sup> 96 OSP 0373* <sup>8</sup> 96 OSP 0374* <sup>8</sup> 96 OSP 0375* <sup>8</sup> 96 OSP 0376* <sup>8</sup> 96 OSP 0383 96 OSP 0397 96 OSP 0625 96 OSP 0674 96 OSP 0691 96 OSP 0715 96 OSP 0780	Gray Phipps Nesnow Smith Gray Gray Morrison West Morrison Phipps Nesnow Smith Nesnow Smith Nesnow Smith Nesnow Smith Becton Gray Becton Nesnow Smith Phipps West Nesnow Smith	03/12/96 05/14/96 09/19/96 05/17/96 06/03/96 04/09/96 07/02/96 08/05/96 05/15/96 07/05/96 07/05/96 07/05/96 07/05/96 07/05/96 10/01/96 08/15/96 08/29/96 09/05/96 09/23/96 07/30/96 10/16/96	
<b><i>Department of Crime Control and Public Safety</i></b>				
Jerry Lee Fields v. State Highway Patrol Gene Wells v. Crime Control & Public Safety, State Highway Patrol Hearn Oxendine v. Crime Control & Public Safety, St. Highway Patrol Jerry Lee Fields v. State Highway Patrol Gene Wells v. Crime Control & Public Safety, State Highway Patrol	94 OSP 1174* <sup>10</sup> 95 OSP 0249* <sup>9</sup> 95 OSP 0697 95 OSP 0836* <sup>10</sup> 95 OSP 1050* <sup>9</sup>	Gray Nesnow Smith Nesnow Smith Gray Nesnow Smith	08/05/96 07/23/96 10/16/96 08/05/96 07/23/96	
<b><i>Durham County Health Department</i></b>				
Lylla D. Stockton v. Durham County Health Department	95 OSP 0176	West	07/02/96	
<b><i>East Carolina University</i></b>				
Gregory Lapicki v. East Carolina University Bela E. Karvaly, Ph.D. v. ECU Bd. of Trustees, Ch. Richard R. Eakin	94 OSP 1721 96 OSP 0150	Reilly Chess	09/26/96 05/08/96	
<b><i>Employment Security Commission</i></b>				
Gene S. Baker v. Gov. James B. Hunt, Jr., Ann Q. Duncan, Chairman, Employment Security Commission William Herbert Allen v. Employment Security Commission Patricia Gary v. Employment Security Commission Tonderlier Lynch v. Emp. Security Comm., Austin Quality Foods, Inc.	93 OSP 0707 94 OSP 1688 95 OSP 0793 96 OSP 0275	Becton West Chess Chess	05/16/96 06/11/96 05/14/96 05/21/96	11:05 NCR 300
<b><i>Department of Environment, Health, and Natural Resources</i></b>				
Roberta Ann "Robin" Hood v. Environment, Health, & Natural Resources Kathy B. Vinson v. Dept. of Environment, Health, & Natural Resources Donald E. Batts v. Division of Adult Health, EHNR	95 OSP 0035 95 OSP 0203 95 OSP 1071	Reilly Gray Nesnow Smith	04/09/96 09/18/96 10/01/96	11:13 NCR 1087

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<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
<i>Fayetteville State University</i>				
William C. Neal v. Fayetteville State University	95 OSP 0392	Nesnow Smith	04/22/96	
<i>Guilford County Area Mental Health, Developmental Disabilities and Substance Abuse</i>				
Stuart Klatte v. Guilford Cty Area MH/DD/SAS, St. Per Comm, OSP	95 OSP 1179	Nesnow Smith	07/19/96	11:10 NCR 865
<i>Department of Human Resources</i>				
Ophelia Webb v. Edard R. Inman, Dir. Alamance Cty DSS, Alamance Cty DSS, Alamance County, and DHR	96 OSP 0112	Gray	03/13/96	
Gail Marie Rodgers Lincoln v. DHR, DMH/DD/SAS-Cherry Hosp., Cherry Hospital	96 OSP 0159	Chess	06/17/96	
Cynthia D. Hickman v. DHR, Central School for the Deaf	96 OSP 0191	Becton	09/23/96	
Johnny Earl Young v. Unit Head Director of Food & Nutrition	96 OSP 0217	Reilly	08/13/96	
Mary A. Boogaerts v. Cherry Hospital, Goldsboro, NC	96 OSP 0269	Becton	05/29/96	
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Johnny Earl Young v. Unit Head Director of Food & Nutrition	96 OSP 0543	Reilly	07/09/96	
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Kim A. Bell v. Walter B. Jones Alcohol & Drug Abuse Treatment Center	96 OSP 0597	Becton	09/11/96	
Lynn S. Hales v. John Umstead Hospital	96 OSP 0729	West	10/02/96	
<i>Buncombe County Department of Social Services</i>				
Kathy Davis v. Buncombe County Department of Social Services	95 OSP 1487	West	08/09/96	
<i>Caswell Center</i>				
Ramona C. Jenkins v. Department of Human Resources, Caswell Center	89 OSP 0411	Becton	03/26/96	
Ramona C. Jenkins v. Department of Human Resources, Caswell Center	91 OSP 0522	Becton	03/26/96	11:02 NCR 89
Franklin D. Sutton v. Department of Human Resources, Caswell Center	94 OSP 0766	Nesnow Smith	03/21/96	
<i>Durham County Department of Social Services</i>				
Jan E. Smith v. Durham County Department of Social Services	95 OSP 1121	Morrison	05/24/96	
<i>Halifax County Department of Social Services</i>				
Clairbel Thomas v. Halifax County DSS & Director, Halifax County DSS	95 OSP 0905	West	05/29/96	11:06 NCR 395
<i>Haywood County Department of Social Services</i>				
Carol Hubbard v. Haywood County Department of Social Services	95 OSP 1084	Reilly	08/30/96	11:13 NCR 1092
<i>Division of Medical Assistance</i>				
Harold Wiggins v. Division of Medical Assistance	95 OSP 1482	West	06/11/96	
<i>O'Berry Center</i>				
Samuel Geddie v. O'Berry Center	96 OSP 0414	Morrison	06/13/96	
<i>Rockingham County Department of Social Services</i>				
Loretta Lawson v. Rockingham County DSS	96 OSP 0471	West	06/13/96	
<i>Wake County Department of Social Services</i>				
Phylia Gilbert v. Wake County Department of Social Services	95 OSP 1238	Phipps	06/27/96	
<i>Wilson County Department of Social Services</i>				
Karen R. Davis v. Wilson County Department of Social Services	96 OSP 0394	Chess	10/16/96	
<i>Department of Insurance</i>				
Larry W. Creech v. Department of Insurance	95 OSP 0631	Reilly	06/06/96	11:07 NCR 434

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<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
<b><i>Department of Labor</i></b>				
Kevin P. Kolbe, Sr. v. Department of Labor	95 OSP 0968	Morrison	03/14/96	11:01 NCR 58
<b><i>New Hanover County Board of Health</i></b>				
Tabandeh Zand v. New Hanover County Board of Health	95 OSP 1035	Nesnow Smith	03/01/96	
<b><i>Department of Public Instruction</i></b>				
Johnny Leak v. Public Schools of NC, Dept. of Public Instruction	96 OSP 0861	Phipps	09/05/96	
McLennard Jay v. Person County Schools	96 OSP 0862	Phipps	09/04/96	
<b><i>Sandhill Community College</i></b>				
Earl Levon Womack v. Sandhill Community College Bd. of Trustees	96 OSP 0573	Phipps	07/25/96	
<b><i>Office of the State Controller</i></b>				
Angela M. Terry v. Office of the State Controller	96 OSP 0402	Becton	08/07/96	
<b><i>North Carolina State University</i></b>				
Vernell Mitchell v. North Carolina Cooperative Extension	96 OSP 0132	Gray	05/10/96	
<b><i>Department of Transportation</i></b>				
Pearlie M. Samuel-Johnson v. Department of Transportation	94 OSP 0589 <sup>1</sup>	Gray	03/01/96	
Dorothy J. Grays v. Div. of Motor Vehicles, Dept. of Transportation	94 OSP 1044	Reilly	04/12/96	11:03 NCR 173
Pearlie M. Samuel-Johnson v. Department of Transportation	95 OSP 0837 <sup>1</sup>	Gray	03/01/96	
Lisa Ann Lee v. Department of Transportation	95 OSP 1099	Reilly	07/31/96	
Melvin Duncan v. Department of Transportation	95 OSP 1462	Morrison	03/08/96	
Greg Brown v. Department of Transportation	96 OSP 0048	Reilly	05/02/96	
Jesse Wayne Castle v. State Highway Maint., Guess Rd., Durham, NC	96 OSP 0087	Gray	04/15/96	
Archie Brooks v. W. F. Rosser, Department of Transportation	96 OSP 0239	Nesnow Smith	05/17/96	
Jessie L. Allen et al. v. DMV Enforcement Section	96 OSP 0408	Becton	08/12/96	
R.L. Singleton v. Department of Transportation	96 OSP 0683	Becton	08/12/96	
Stephanie Taylor v. Department of Motor Vehicles	96 OSP 0955	Becton	08/29/96	11:13 NCR 1095
<b><i>Tri-County Mental Health Complex</i></b>				
Deborah Heil v. Tri-County Mental Health Complex	95 OSP 1100	Nesnow Smith	03/22/96	
<b><i>University of North Carolina</i></b>				
Pamela B. Edwards v. University of North Carolina at Chapel Hill	95 OSP 0842	Chess	06/28/96	
Keith R. Cameron v. University of North Carolina at Chapel Hill	95 OSP 1060	Morrison	06/24/96	
Jerel H. Bonner v. School of Nursing UNC at Chapel Hill	96 OSP 0026	Gray	03/12/96	11:01 NCR 61
Bela E. Karvaly, Ph.D. v. UNC Bd. of Gov., Pres. C.D. Spangler, Jr.	96 OSP 0151	Chess	05/08/96	
Carl E. Whigham v. UNC Hospitals at Chapel Hill	96 OSP 0248	Chess	06/11/96	
J. Scott Spears v. Ralph Pederson and UNC-C	96 OSP 0548	Chess	08/30/96	
Nellie Joyce Ferguson v. UNC Physicians & Assoc., Charles Foskey, Dir.	96 OSP 0977	Phipps	10/02/96	
Mac Helen Lewis v. UNC Greensboro - Physical Plant	96 OSP 1000	Reilly	10/21/96	
<b><i>Wake County Board of Health</i></b>				
Debbie L. Whitley v. Env. Health Div., Wake Cty. Dept. of Health	96 OSP 1090	Nesnow Smith	09/05/96	
<b><i>STATE TREASURER</i></b>				
Donald B. Durham v. Teachers' & St. Employees Retirement Sys.	92 DST 1066	Chess	07/17/96	11:09 NCR 810
Joyce Clyburn v. Dept. of State Treasurer Retirement Systems Division	96 DST 1087	Nesnow Smith	10/18/96	

\* Consolidated cases.

**CONTESTED CASE DECISIONS**

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<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
<b>UNIVERSITY OF NORTH CAROLINA</b>				
Sylvia Jeffries v. University of NC Hospitals at Chapel Hill	96 UNC 0067	Gray	04/16/96	
Jamec E. Boudwin v. University of NC Hospitals at Chapel Hill	96 UNC 0343	Chess	07/22/96	
Rufus T. Moore Jr. v. UNC Hospital	96 UNC 0470	Reilly	08/12/96	
Marcia Spruill v. UNC Hospitals - Patient Accounts	96 UNC 0500	Becton	07/10/96	
Charles E. Houlk v. UNC Hospitals	96 UNC 0588	Morrison	08/09/96	

**STATE OF NORTH CAROLINA**

IN THE OFFICE OF  
ADMINISTRATIVE HEARINGS  
95 EHR 1335

**CITY OF REIDSVILLE, A MUNICIPAL  
CORPORATION** )  
Petitioner, )  
 )  
v. )  
 )  
**DEPARTMENT OF ENVIRONMENT, HEALTH,  
AND NATURAL RESOURCES, ACTING THROUGH  
DIVISION OF ENVIRONMENTAL MANAGEMENT** )  
**Respondent.** )

## **RECOMMENDED DECISION**

THIS MATTER was heard before the Honorable Beecher R. Gray, Administrative Law Judge, on April 11 and 12, 1996, in Wentworth, North Carolina.

Petitioner filed a Petition for a contested case hearing on November 21, 1995, requesting a hearing pursuant to N.C. Gen. Stat. § 150-23 to contest the BOD<sub>5</sub> and NH<sub>3</sub>-N effluent parameters set out in National Pollutant Discharge Elimination Systems (NPDES) Discharge Permit No. NC0024881.

## APPEARANCES

For Petitioner: J. Michael Thomas  
Post Office Box 2104  
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(910) 342-3320  
Attorney for Petitioner

For Respondent: Anita LeVeaux Quigless  
Assistant Attorney General  
N. C. Department of Justice  
Post Office Box 629  
Raleigh, NC 27602-0629

## ISSUE

Whether the BOD<sub>5</sub> (CBOD<sub>5</sub>) and NH<sub>3</sub>-N limits set forth in the State NPDES Discharge Permit No. NC0024881 effective December 1, 1995, are arbitrarily and capriciously restrictive and therefore imposed by Respondent in violation of Petitioner's rights?

The undersigned makes the following:

## FINDINGS OF FACT

1. The petitioner City of Reidsville, a municipal corporation of Rockingham County with a population of approximately 14,000, is the operator of a public wastewater treatment plant holding an NPDES permit issued by the respondent agency Division of Environmental Management, acting upon regulatory authority delegated to the State of North Carolina and the issuing agency by the United States Environmental Protection Agency. Petitioner currently discharges under an NPDES permit into Little Troublesome Creek, a tributary of the Haw River which in turn is a tributary and subbasin of the Cape Fear River.

2. On October 27, 1995, the Respondent issued a draft NPDES permit permitting the Petitioner to discharge into the Haw River at a new discharge point located adjacent to the N.C. Highway 150 bridge in southeastern Rockingham County. The draft permit was based upon the Petitioner's application for a discharge point relocated directly to Haw River.

3. Petitioner's wastewater treatment plant was recently enlarged and improved pursuant to a judicial order of consent with the State of North Carolina, in order to deal with continuing problems in meeting certain effluent parameters and eliminating chronic toxicity from the effluent. The plant's designed wastewater treatment capacity is for a wastewater flow of 7.5 million gallons per day (MGD). The Petitioner's discharge into Little Troublesome Creek currently accounts for approximately 98 percent of the stream flow below the plant; this is the petitioner's current "in-stream concentration" of effluent at point of discharge. The planned relocated discharge into Haw River would reduce the in-stream concentration of the Petitioner's effluent at point of discharge from 98 percent to 61 percent.

4. The significance of the high in-stream concentration of effluent lies in its effect on the dissolved oxygen (DO) in the receiving stream at point of discharge. The DO is a scientific measure often used as an indicator of the receiving water's ability to support aquatic life. A receiving water's ability to assimilate polluting effluent without negatively affecting the DO in the stream and, therefore, the stream's ability to support aquatic life, is referred to as the receiving stream's "assimilative capacity."

5. The DO in the receiving stream is protected through two key effluent parameters or pollution limits, namely, (1) the carbonaceous biological oxygen demand (CBOD<sub>5</sub>) parameter, and (2) the ammonium nitrogen (NH<sub>3</sub>-N) parameter. The current high in-stream concentration of the Petitioner's discharge into Little Troublesome Creek has resulted in the Petitioner currently having restrictive (summer) parameters of CBOD<sub>5</sub> at 4.0 mg/l and NH<sub>3</sub>-N at 2.0 mg/l. These CBOD<sub>5</sub> and NH<sub>3</sub>-N parameters effectively reduce the Petitioner's treatment plant capacity (to receive and treat wastewater) to 2.8 MGD, instead of 7.5 MGD, because the Petitioner must treat its wastewater effluent to a higher degree than is typically the case since its discharge makes up most of the receiving stream below the plant.

6. Because the Petitioner's wastewater treatment plant currently intakes a high degree of industrial waste, its has no additional capacity for treatment of additional commercial or industrial users without violating its current parameters. The Petitioner plans to construct the new discharge point at Haw River by running a pipe from its wastewater treatment plant approximately 5.5 miles to the N.C. Highway 150 bridge location, at a projected cost of \$5.8 million dollars. The Petitioner has already expended approximately \$352,000.00 in engineering and acquisitions costs preparatory to permitting and construction of the discharge line.

7. In processing the Petitioner's application for a new NPDES permit for the proposed Haw River discharge point, the Respondent agency through its Water Quality Section considered *inter alia* the Petitioner's environmental assessment (EA) prepared for the Petitioner by its consulting engineer. The EA indicated that the proposed discharge relocation to Haw River would provide increased dilution of the Petitioner's effluent that would minimize the Petitioner's chronic toxicity problem. The EA, prepared by the Petitioner's consulting engineer, noted the current Little Troublesome Creek discharge parameters and did not propose increasing the CBOD<sub>5</sub>, NH<sub>3</sub>-N, or other permit effluent parameters at the Haw River discharge location. The Petitioner, however, expected the DO-related parameters to be increased because of a presumed increased assimilative capacity at the proposed Haw River discharge location.

8. On October 27, 1995, the Respondent issued the draft NPDES permit for the Petitioner's proposed relocated Haw River discharge. The draft permit modified or eliminated effluent parameters at the new proposed discharge site for toxicity and metals consistent with the new discharge location's increased dilution of effluent. The draft permit maintained the CBOD<sub>5</sub> and NH<sub>3</sub>-N parameters at the same levels for the proposed Haw River discharge as currently required at the Little Troublesome Creek discharge. In a cover letter therefor to Petitioner's City Manager D. Kelly Almond, written over the name of the Respondent agency's director A. Preston Howard, Jr., and signed for the director by David A. Goodrich, environmental engineering supervisor of the permits and engineering unit of Respondent's Water Quality Section, the Respondent summarized its bases for maintaining the restrictive CBOD<sub>5</sub> and NH<sub>3</sub>-N limits:

The limits for BOD<sub>5</sub> (CBOD<sub>5</sub>) and NH<sub>3</sub>-N were determined based on the hydrologic characteristics for the receiving stream and instream dissolved oxygen levels in the upper Haw River. In the area of the proposed discharge relocation, the Haw River is characterized by very low slopes which cause slow velocities and low reaeration rates in the receiving stream. This condition can severely limit assimilative capacity, especially in the case of larger discharges. In addition, due to the high industrial wastewater percentage at the City's treatment plant, the wastewater is more resilient than 100% domestic wastewater. The resiliency of the wastewater for the City of Reidsville was determined through the Division's BOD ultimate test. All of these factors contributed to the determination of the limits for oxygen consuming waste and the recommendation that the City of Reidsville retain their existing limits for CBOD<sub>5</sub> and NH<sub>3</sub>-N.

9. The draft NPDES parameters for CBOD<sub>5</sub> and NH<sub>3</sub>-N were in fact determined through an in-house modeling protocol known as the "Level B model." The Level B model is a "desktop" model used by the Respondent to test the effects of proposed discharges by NPDES permit applicants and makes use of data maintained by the State previously collected by state and federal agencies from the river basins throughout North Carolina. Use of the Level B model permits the Respondent to handle the large number of NPDES permits expeditiously and relatively inexpensively, without having to collect in-stream and field data over a long period of time from the affected receiving stream as required to conduct the more elaborate, field-calibrated approach known as "Level C" modeling.

10. The Level B modeling is performed according to a protocol adopted by the Respondent and entitled "Desktop Modeling Procedure (Level B) for Determining NPDES Permit Effluent Limitations on Oxygen Consuming Waste." The Level B protocol provides in pertinent part, "In the absence of actual stream data for model calibration, a Level B (desktop) modeling analysis can be performed. Level B modeling incorporates the use of empirical model input equations and DEM procedures to establish model input parameter values." The modeling is done based on four major input categories, namely, (1) model hydraulics considerations including streamflow, runoff, stream velocity, channel width and depth, and stream bed gradient, (2) model reaction rates including CBOD decay ( $k_d$ ), NBOD decay ( $k_N$ ), and reaeration ( $k_a$ ), (3) model design temperature based upon the season and physical location of the stream within the State, and (4) background and boundary conditions, i.e. headwaters and tributaries.

11. The Level B model thus provides for and is premised on the absence of actual water quality data collected in-stream at the point of discharge and relies instead on default values previously compiled and applicable to the proposed discharge location. The default values are used in a series of equations to predict the effect of the permittee's discharge on the DO in the receiving stream and produce wasteload allocations expressed in terms of CBOD (BOD<sub>5</sub>) and NBOD (NH<sub>3</sub>-N) parameters.

12. The Level B model for Petitioner's Haw River discharge NPDES permit was performed by Jason Doll, an environmental modeler employed by the Respondent's instream assessment unit. In performing the Level B model for the subject permit application, Doll used the results of ultimate CBOD testing from a sample made at the Petitioner's wastewater treatment plant in June 1993. This was the "BOD ultimate" information referred to in the Respondent's October 27, 1995 letter covering the draft NPDES permit.

13. "BOD ultimate" or "ultimate CBOD" refers to the oxygen demand (consumption of oxygen) over a long period of time - in the case of the Reidsville sampling, a period of 140 days. "BOD<sub>5</sub>" refers to the same thing, but over a set period of five days. The ratio of ultimate BOD/BOD<sub>5</sub> is used as a coefficient in the Level B modeling to determine waste load allocations - i.e., the contested CBOD<sub>5</sub> and NH<sub>3</sub>-N parameters. An equally significant input parameter in the modeling is the decay rate ( $k_d$ ), meaning the rate at which the BOD is oxidized.

14. Because the Level B modeling employs mathematical formulae, the input parameters used therein are co-dependent - that is, if all but one coefficient is known, the equation will dictate that remaining coefficient's value. Doll used the actual ultimate BOD/BOD<sub>5</sub> ratio derived from the June 1993 Reidsville sampling and a default-value decay rate ( $k_d$ ) of 0.22. Use of these coefficients, one an actual datum from the Reidsville plant and the other a default value, produced waste load parameters of 5 mg/l BOD<sub>5</sub> and 2 mg/l NH<sub>3</sub>-N, respectively, which were the effluent parameters set forth in the draft NPDES permit.

15. Robert M. Stein, an expert in the field of water quality analysis, reviewed the Respondent's Level B modeling. Stein did not duplicate the Level B modeling but simulated it through the use of a computer software program called QUAL2E, a sophisticated environmental modeling program. The results of Stein's review of the Respondent's modeling was summarized in his written report as follows:

Determination of Allowable Waste Load Allocation Given Section Kinetics and Waste Loading

To determine the maximum allowable CBOD which does not violate the 5 mg/l in-stream DO standard, the QUAL2E model was run at CBOD values ranging from a low of 20 mg/l to the 40.5 mg/l used by the Section. The NBOD loading, the hydraulic and kinetic parameters, and the background conditions in the river were kept constant at the values used in the Level B model.

The minimum in-stream DO predicted by the model for each CBOD value is presented graphically in Figure 4. A CBOD of 25 mg/l represents the maximum assimilative capacity of the model area based upon

the QUAL2E results.

Evaluation of Section Kinetic Coefficients and CBOD/BOD<sub>s</sub> Ratio

The oxygen load of an oxygen-consuming organic wastewater can be represented with a first-order decay equation which when integrated from time zero to infinity is expressed as:

$$L_t/L = e^{-k_d t}$$

where  $L_t$  is the amount of first-stage BOD remaining in the water at time  $t$ ,  $L$  is the ultimate BOD, and  $k_d$  is the reaction rate coefficient. By selecting values for any two of the three variables in this equation ( $L_t, L, k_d$ ) the value of the third variable is fixed by the mathematical relationship.

Inspection of the Level B model input reveals that the combination of CBOD/BOD<sub>s</sub> ratio of 8.1 is not consistent with a BOD decay coefficient ( $k_d$ ) of 0.22 when the BOD<sub>5</sub> is taken to be 5 mg/l. The 8.1 CBOD/BOD<sub>s</sub> ratio is based upon long-term BOD testing which indicates that the Reidsville effluent continues to exert oxygen demand long after the twenty to thirty day period typical of municipal wastewater. For comparison, the Section guidance document for the Level B model recommends a CBOD/BOD<sub>s</sub> ratio of 1.5 to 3 in the absence of waste-specific data. The  $k_d$  value of 0.22 is typical of readily degradable municipal waste; however, it is not compatible with the high CBOD/BOD<sub>s</sub> ratio assumed by the Section. The ratio and the coefficient are inversely related. For the CBOD/BOD<sub>s</sub> ratio to be higher than normal, the decay coefficient must be lower than normal given a specific value of BOD<sub>s</sub>.

Determination of Allowable CBOD with Alternate Kinetic Coefficient and CBOD/BOD<sub>s</sub> Ratio

Using the mathematical relationship outlined above, alternate values for  $k_d$  and for the CBOD/BOD<sub>s</sub> ratio were calculated. First, the resulting BOD<sub>s</sub> was calculated using a CBOD value of 25 mg/l, a  $k_d$  of 0.22, (conditions the model indicates the river will support) and the derived relationship:

$$y_s = L(1 - e^{-k_d t})$$

where  $y_s$  is BOD<sub>s</sub>,  $L$  is CBOD, and  $k_d$  is the BOD decay rate coefficient. The resulting BOD<sub>5</sub> is 16.7 mg/l. Using this kinetic relationship, the QUAL2E model predicts that the river is capable of assimilating a Reidsville WWTP effluent BOD<sub>s</sub>, in excess of 16 mg/l.

The second alternative was to keep the CBOD and BOD<sub>s</sub> values assumed in the Level B model input ratio and to calculate the resulting  $k_d$  value using the referenced equation. With a CBOD of 40.5 mg/l and BOD<sub>s</sub> at 5 mg/l, the  $k_d$  value becomes to 0.03 (rounded to two decimal places).

To determine the effect of the calculated decay rate coefficient on the river DO, the QUAL2E model was re-run with  $k_d=0.03$  and with the CBOD varying from 40 mg/l to 140 mg/l. A plot of the minimum instream DO concentration versus the CBOD for this model configuration is presented as Figure 6.

Using the revised  $k_d$  of 0.03, the QUAL2E model indicates that a CBOD in excess of 120 mg/l can be supported by the river. With a CBOD/BOD<sub>s</sub> ratio of 8.1, the resulting allowable BOD<sub>5</sub> becomes approximately 15 mg/l.

16. In Stein's expert opinion, the Haw River at the proposed discharge location has a higher assimilative capacity than predicted by the Respondent's modeling. Further, Stein concluded, and the foregoing excerpt from his report provides the technical basis for such conclusion, that the key problem with the Respondent's modeling was the failure to develop an accurate degradation rate ( $k_d$ ) as dictated by the June 1993 sampling; instead, the Respondent's modeler used a default value decay rate. This violated the Respondent's own Level B protocol, which requires the use of default data only where actual data is lacking. Where the Respondent had the June 1993 sampling (actual data), it had the means to mathematically calculate the actual decay rate ( $k_d$ ); instead, the modeler coupled the ultimate CBOD/BOD<sub>5</sub> ratio with a default-value decay rate, which is not correct under the Respondent's own Level B protocol.

CONCLUSIONS OF LAW

1. All parties are properly before the Office of Administrative Hearings, all parties received due notice of the contested case hearing herein, and the Office of Administrative Hearings has jurisdiction over the parties and the subject matter.

2. All parties have been correctly designated, and there is no question as to misjoinder or nonjoinder.

3. Respondent acted arbitrarily and capriciously, and in violation of Petitioner's rights, in establishing the BOD<sub>5</sub>(CBOD<sub>5</sub>) and NH<sub>3</sub>-N limits set forth in the State NPDES Discharge Permit No. NC0024881 effective December 1, 1995, because in establishing said limits the Respondent violated its own modeling protocol, entitled "Desktop Modeling Procedure (Level B) for Determining NPDES Permit Effluent Limitations on Oxygen Consuming Waste," uniformly applicable to NPDES permitting decisions. *See Kent County, Maryland v. U. S. Environmental Protection Agency*, 963 F.2d 391 (D.C. Cir. 1992) (Where U. S. Environmental Protection Agency placed landfill operator's site on National Priorities ("Superfund") List (the NPL), and the action was challenged as violating the standard precluding agency acts "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law" pursuant to 5 U.S.C. § 706(2)(A), held the agency acted arbitrarily and capriciously when it used only unfiltered samples and not filtered samples as well, as required by its own internal policy, to test the groundwater at the site to determine the landfill's "toxicity/persistence" score.) *Accord, Anne Arundel County, Maryland v. U. S. Environmental Protection Agency*, 963 F.2d 412 (D.C. Cir. 1992). *See National Gypsum Company v. U. S. Environmental Protection Agency*, 968 F.2d 40 (D.C. Cir. 1992) (Where petitioner's dump site was placed on the NPL, and where EPA could not offer a satisfactory explanation for its inference that compounds other than boron oxide existed at the site, nor could offer substantial evidence that the highly toxic boron compounds were present there, all based on a test of groundwater revealing traces of boron but not disclosing the chemical form of boron contained in the groundwater sample, held the agency's decision to assign a toxicity/persistence score placing it on the NPL was based on unsupported assumptions and not reasonable or scientifically based inferences and therefore was arbitrary and capricious.) *See State of Ohio v. U. S. Environmental Protection Agency*, 784 F.2d 224 (6th Cir. 1986) (Where EPA established Clean Air Act emission limits for the smokestacks of two electric utility plants based on a computer model used by EPA to forecast pollution from such plants, held the agency acted arbitrarily in using the computer model without adequately validating, monitoring, or testing its reliability or its trustworthiness in forecasting pollution in the plants' vicinity; more specifically, given the model's demonstrated sensitivity to site-specific characteristics, EPA's failure to validate the model at the two smokestack sites in accordance with its own guidelines was arbitrary and capricious.) *See City of Stoughton, Wis. v. U. S. Environmental Protection Agency*, 858 F.2d 747 (D.C. Cir. 1988) (Where EPA placed city and corporate landfills on the NPL, held EPA did not act arbitrarily or capriciously in relying on information submitted by the city showing the presence of chloroform, when another test negated that finding, since there was no showing that the data relied on by EPA was invalid; the court noted the petitioner-City of Stoughton correctly stated the applicable standard for review, namely, that the use of invalid data is, in itself, an arbitrary and capricious action, and that failure on the part of EPA to follow its own regulation is an arbitrary and capricious action.)

Based upon the foregoing Findings of Fact and Conclusions of Law, the undersigned makes the following:

RECOMMENDED DECISION

The North Carolina Environmental Management Commission should remand the subject draft NPDES permit to the Division of Environmental Management for re-modeling in strict compliance with the Division's protocol entitled "Desktop Modeling Procedure (Level B) for Determining NPDES Permit Effluent Limitations on Oxygen Consuming Waste."

ORDER

It is hereby ordered that the agency serve a copy of the final decision on the Office of Administrative Hearings, P. O. Drawer 27447, Raleigh, NC 27611-7447, in accordance with N. C. Gen. Stat. § 150B-36(b).

**NOTICE**

The agency making the final decision in the contested case is required to give each party an opportunity to file exceptions to this recommended decision and to present written arguments to those in the agency who will make the final decision. N. C. Gen. Stat. § 150B-36(a).

The agency is required by N. C. Gen. Stat. § 150B-36(a) to serve a copy of the final decision on all parties and to furnish a copy to the parties' attorney of record and to the **Office of Administrative Hearings**. The agency that will make the final decision in this contested case is the North Carolina Environmental Management Commission.

This the 1st day of October, 1996.

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Hon. Beecher R. Gray  
Administrative Law Judge

**STATE OF NORTH CAROLINA**

**COUNTY OF DURHAM**

**IN THE OFFICE OF  
ADMINISTRATIVE HEARINGS  
95 OSP 1461**

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<b>RENEE LYNCH</b>	)	
<b>Petitioner,</b>	)	
	)	
<b>v.</b>	)	<b>RECOMMENDED DECISION</b>
	)	
<b>NORTH CAROLINA CENTRAL UNIVERSITY</b>	)	
<b>Respondent.</b>	)	

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The above-captioned contested case hearing was heard before Dolores Nesnow Smith, Administrative Law Judge, on August 26-27, 1996 in Durham, North Carolina.

**APPEARANCES**

**For Petitioner:** Mark Dorosin  
McSurely, Dorosin & Osment  
157 1/2 East Franklin Street  
Chapel Hill, North Carolina 27514  
Attorney for Petitioner

**For Respondent:** Celia Grasty Jones  
Assistant Attorney General  
North Carolina Department of Justice  
P. O. Box 629  
Raleigh, North Carolina 27602-0629  
Attorney for Respondent

**ISSUES**

1. In awarding a position for which Petitioner had applied to another applicant, did Respondent unlawfully discriminate against Petitioner on the basis of sex?

2. In awarding a position for which Petitioner had applied to another applicant, did Respondent unlawfully retaliate against Petitioner for having filed EEOC charges and a lawsuit against Respondent?

3. In awarding a position for which Petitioner had applied to another applicant who was not a State employee, did Respondent violate the state employee preference policy, as expressed in N.C. Gen. Stat. 126-7.1 and pertinent regulations?

**STATUTES AND RULES IN ISSUE**

N.C. Gen. Stat. 126-16  
N.C. Gen. Stat. 126-17  
N.C. Gen. Stat. 126-36  
N.C. Gen. Stat. 126-7.1  
N.C. Admin. Code, tit. 25, r 1H .0606  
N.C. Admin. Code, tit. 25, r 1H .0607  
N.C. Admin. Code, tit. 25, r 1H .0625(c)  
N.C. Admin. Code, tit. 25, r 1H .0626(b)  
N.C. Admin. Code, tit. 25, r 1L .1802  
42 U.S.C. 2000 *et seq.*

STIPULATION AGREEMENTS

The Petitioner was a permanent State employee and was subject to the provisions of the State Personnel Act.

FINDINGS OF FACT

1. Respondent North Carolina Central University (NCCU) hired Petitioner, Renee Lynch, as a security officer in 1973. By 1991, Petitioner was a Police Officer (PO) II with the rank of sergeant. Petitioner is presently a PO III with the rank of lieutenant.

2. Since 1991 the position of Police and Public Safety Director at NCCU has been vacant twice, first in late 1991 and then in 1995.

3. During the eight-month search for a Director in 1991-92, Petitioner served as Acting Chief of the NCCU Police Department.

4. Petitioner applied for the position of Police and Public Safety Director I in 1992 but was not selected. The successful candidate was Anthony Purcell.

5. In December 1992 and July 1994, Petitioner filed charges against NCCU with the Equal Employment Opportunity Commission (EEOC). Both charges alleged unlawful sex discrimination in various employment incidents, including denial of promotion to the position of Police and Public Safety Director in 1992. Petitioner also filed a lawsuit against NCCU in February 1995, claiming sex discrimination and retaliation.

6. George Walls, Jr. (known as "General Walls" from his military career in the United States Marine Corps) has been the supervisor for the Police and Public Safety Director and employees of the NCCU Police Department since his employment by NCCU in August 1993. Gen. Walls serves as Special Assistant to the Chancellor, Julius Chambers.

7. Because the responsibilities of the Director's position had expanded in scope during Mr. Purcell's tenure, in 1994 Gen. Walls prepared a revised position description seeking to reclassify the position to Police and Public Safety Director II. The revised position description was submitted to the State Personnel Commission for approval in September 1994. Mavis Lewis, NCCU Director of Human Resources, testified that the Commission approved the reclassification.

8. Anthony Purcell resigned as Police and Public Safety Director in June 1995. Chancellor Chambers designated Gen. Walls to form and chair a committee (Search Committee) with the purpose of screening applicants and selecting the three best qualified candidates, from whom the Chancellor intended to select the new Director.

9. In consultation with Ms. Lewis and Chancellor Chambers, Gen. Walls prepared a job vacancy posting for the Police and Public Safety Director II position to be advertised June 22 through July 31, 1995.

10. The posting listed the minimum qualifications for the position as a four-year degree in Behavioral or Police Science or Business Administration and four years of experience in law enforcement, or an equivalent combination of education and experience. It also listed preferred qualifications of a master's degree in Criminal Justice, and five to eight years' experience in law enforcement with at least two of those years being in a managerial or supervisory capacity. In addition, the successful candidate was required to be a certified Law Enforcement Officer and to have a knowledge of law enforcement, safety and security practices and procedures and the ability to motivate staff and University community toward maintenance of law and order.

11. Gen. Walls and Dr. George Wilson, Professor and Chair of NCCU's Department of Criminal Justice, testified that the master's level education was preferred for the Police and Public Safety Director II because the graduate study in Criminal Justice provided intensive grounding in the theory and practice of management and leadership training, as well as tools and skills for planning and evaluation of campus law enforcement and departmental needs. They further testified that the administrative and management skills taught in the graduate level study of Criminal Justice had become increasingly important in the Director's position as the Police Department and campus had grown. The Director is required to administer and direct comprehensive programs in law enforcement, public safety, and crime prevention and deterrence strategies; must manage two budgets; and must interpret, apply and enforce applicable laws and regulations. The urban setting of the NCCU campus and consequent increase of crime-related incidents on the campus in recent years has made coordination of Police Department programs within the University and with state and local law enforcement agencies

increasingly important for campus safety.

12. Gen. Walls and Dr. Wilson testified that, on the basis of their knowledge of campus law enforcement and the responsibilities of the Police and Public Safety Director at NCCU, an individual without a master's degree in Criminal Justice or a related field could be qualified for the Director's position if that person also had significant job-related experience demonstrating acquisition of the skills needed to successfully perform the Director's responsibilities.

13. The Search Committee formed by Gen. Walls included Dr. Wilson, University Attorney Kaye Webb, and persons representative of various segments of the University community served by the Police Department. These members were Dr. Kenneth Chambers, Associate Professor of English and then Chair of the NCCU Faculty Senate; Dr. William Lide, NCCU Athletic Director; Treva Lawrence, then a NCCU student majoring in Criminal Justice and Co-Chair and Security Adviser to the NCCU Student Government Association; and Janice James, Secretary in NCCU's Department of Physical Education and Recreation and then President of the NCCU Professional Office Workers' Association. Chancellor chambers approved Gen. Walls's selections, and added to the Committee Jackie McNeil, Chief of the Durham Police Department. Fearing that he would be unable to attend all meetings of the Search Committee, Chief McNeil asked Lt. Col. Kent Fletcher, also of the Durham Police Department, to assist him.

14. In response to the position vacancy posting, NCCU's Department of Human Resources received eighteen applications, including Petitioner's application. Four of the applicants were female.

15. Ms. Lewis testified that the practice of the Department of Human Resources is to review the applications prior to submitting them to the hiring authority, to screen out applicants who do not meet the minimum qualifications and to identify applicants eligible for priority consideration as State employees.

16. Ms. Lewis testified that her assistant, Charles Warren, performed this review of the eighteen applications for the Director's position. Petitioner's application and several others were marked as eligible for State employee priority consideration.

17. All eighteen applications were forwarded to Gen. Walls.

18. At the time these applications were received, Ms. Lewis was Equal Employment Officer for NCCU in addition to her duties as Director of Human Resources. Ms. Lewis testified that there was no affirmative action hiring goal for women in place for the Police and Public Safety Director II position at that time, because the position came within the Standard Occupational Category of Officials and Administrators. In that category of position, females were then over represented at NCCU.

19. Thus, the Department of Human Resources did not notify Gen. Walls that the Search Committee should accord an affirmative action preference to the female applicants.

20. Audrey Crawford-Turner, the present NCCU Equal Employment Opportunity Officer, testified that females are still over represented in the Officials and Administrators category, as shown by NCCU's Equal Employment Opportunity Plan for 1995-96.

21. When Gen. Walls received the applications from the Department of Human Resources, he convened the first meeting of the Search Committee. He gave each member copies of all applications, the position vacancy posting, and forms he had designed to assist them in evaluating the applicants' qualifications in light of the minimum and preferred qualifications for the position.

22. Gen. Walls instructed the Committee members concerning the responsibilities of the Director's position and the State employee preference policy, and asked them to review all of the applications in light of the posted qualifications and responsibilities of the position.

23. The Committee decided that they would each ascertain the top five candidates they determined to be the most highly qualified. They would then as a group arrive at a consensus on the top five candidates, whom they would interview with the objective of selecting the three most highly qualified to recommend to the Chancellor.

24. Gen. Walls told the Committee that they might use the form he created, assigning numerical rankings from 1 to 5 for each category, or that they might use any other method they found helpful.

25. When the Search Committee met for the second time, the members reported on their respective evaluations of the applications, and charted the results. All of the Committee members who testified at the hearing - Gen. Walls, Dr. Wilson, Ms. Webb, Chief McNeil, and Lt. Col. Fletcher - stated they did not rank Petitioner's application among the five they considered to be most qualified.

26. They testified that, while Petitioner had a bachelor's degree in Criminal Justice and twenty-two years of service with the NCCU Police Department and thus met the minimum qualifications, at least five of the other applicants presented combinations of education and relevant experience that exceeded the minimum qualifications.

27. Each member of the Committee, including Gen. Walls, had an equal vote in the selection process.

28. By consensus, the Committee agreed upon five candidates for interviewing. All of the five were male.

29. Each member of the Search Committee who was a witness at the hearing testified that the fact that Petitioner is a woman had no bearing on their evaluation of her application. They saw no indication that others on the Committee were motivated against Petitioner because she is a woman. They testified that they believed that a qualified woman would be capable of successfully performing the duties of the Director's position, but that none of the female applicants including petitioner presented qualifications substantially equal to those of the five male finalists.

30. Petitioner testified that two of the Committee members, Dr. Wilson and Chief McNeil, were biased against her because she is a woman.

31. Petitioner testified that while she was Acting Chief she had called Dr. Wilson to discuss setting up a program for using student interns in the Police Department, and that he never contacted her to discuss this.

32. Dr. Wilson testified that he did not recall Petitioner's having called him about the student interns, but that such a program had been used in the past. It discontinued under a previous Chancellor due to liability concerns. He testified that Petitioner's being a woman had nothing to do with his response to her on this matter.

33. Petitioner also testified that while she was Acting Chief, Chief McNeil had caused NCCU's then-Chancellor, Dr. Donna Benson, to reprimand her for not having sent a representative to a conference concerning drug-related crime prevention which Chief McNeil had coordinated and which was attended by representatives of many other local law enforcement agencies.

34. Chief McNeil testified that Petitioner's sex had nothing to do with this incident. As a NCCU alumnus aware of the increased incidence of crime on the campus, he was concerned by the University's lack of participation. He conveyed that concern to Dr. Benson through a letter on which he copied Petitioner.

35. Lt. Col. Fletcher testified that when he served on the Search Committee he was unaware that Petitioner had filed charges against the University in the past. Gen. Walls, Dr. Wilson, Ms. Webb, and Chief McNeil were aware of the charges, but testified that their knowledge did not affect their evaluation of Petitioner's application. They testified that they saw no indication that others on the Search Committee who knew about Petitioner's charges were affected in their decision making by that knowledge.

36. The witnesses who were Search Committee members testified that they were aware during the selection process that priority consideration should be given to a State employee whose qualifications were substantially equal to those of a non-State employee applicant. They further testified that they did not find that Petitioner's qualifications were substantially equal to those of the two non-State employee applicants who were among the five finalists: McDonald Vick and James Jones.

37. Mr. Jones has an M.S. degree in Criminal Justice, and Mr. Vick had completed all course work for the same degree, lacking only the thesis for completion of all requirements. Petitioner had no graduate level credits in Criminal Justice or other related field.

38. Mr. Vick and Mr. Jones also had relevant law enforcement experience, including supervisory experience.

39. Petitioner's application showed that, while she had served as Acting Chief at NCCU for eight months, she had only five and one-half years of other supervisory experience and no other managerial or administrative experience, as would be needed to offset her lack of graduate level education.

40. The Search Committee members testified that Petitioner's job-related experience did not demonstrate sufficient acquisition of the knowledge, skills and abilities of the Director's position to permit a reasonable substitution of her experience for the preferred level of formal education possessed by Mr. Jones and Mr. Vick.

41. The five finalists were interviewed by the Committee and by representatives of NCCU's Athletic Department, which Gen. Walls identified as a major constituency of the Police Department.

42. Following the interviews, the Committee met again to evaluate the results. The Committee voted to select Willie Bell, Jr., James Herring, and McDonald Vick for recommendation to the Chancellor.

43. Mr. Vick was an employee of the Durham Police Department at the time he applied for the Director's position, as was James Jones, another applicant the Committee had interviewed.

44. Chief McNeil and Lt. Col. Fletcher testified that during the selection process they did not attempt to influence the Committee in favor of either Mr. Jones or Mr. Vick on the basis of their employment association with these men. The remaining Search Committee witnesses corroborated their testimony.

45. Chancellor Chambers interview these three finalists and selected McDonald Vick to fill the position. Mr. Vick assumed the duties of the Police and Public Safety Director II in December 1995. Gen. Walls testified that Mr. Vick completed his thesis and was awarded the M.S. degree in Criminal Justice in May 1996.

46. G.S. 126-16 requires all State agencies to give equal opportunity for employment and compensation without regard to race, religion, color, creed, national origin, sex, age or handicapping condition, to all persons otherwise qualified.

47. G.S. 126-17 prohibits State agencies from retaliating against an employee for protesting alleged violations of G.S. 126-16.

48. 26 NCAC 01H .0606(a) provides that the selection of applicants for vacant positions will be based on a relative consideration of their qualifications for the position to be filled, with advantage to be given to applicants determined to be most qualified.

49. 25 NCAC 01H .0606(b) requires selection procedures and methods used in filling vacancies to be validly related to the duties and responsibilities of the vacancy to be filled.

50. 25 NCAC 01H .0607(a) provides that the employee or applicant selected for any promotion, must possess at least the minimum education and experience requirements, or their equivalent, as set forth in the class specification for the vacancy being filled.

51. 25 NCAC 01L .1802 provides that minimum qualification standards for a position be based on the required skills, knowledge, and abilities common to that position's classification. Management is responsible for determining specific job-related qualifications that are an addition to the minimum qualification standards.

52. G.S. 126-7.1(c) provides that a State employee who applies for a position that represents a promotion is to be offered the position if she presents substantially equal qualifications as an applicant who is not a State employee.

53. 25 NCAC 01H .0625 provides that qualifications are "substantially equal" when the employer cannot make a reasonable determination that the job-related qualifications held by one person are significantly better suited for the position than the job-related qualifications held by another person.

54. 25 NCAC 01H .0607(b) provides that, in evaluating qualifications, reasonable substitutions of formal education and job-related experience, one for the other, will be made.

55. 25 NCAC 01H .0626(b) provides that when a promotion opportunity exists in occupational categories where there is an established under representation of women, hiring authorities shall consider and support affirmative action needs.

Based upon the foregoing Findings of Fact, the undersigned makes the following:

**CONCLUSIONS OF LAW**

**SEX DISCRIMINATION**

1. The employee's threshold burden is to provide sufficient evidence to establish a *prima facie* case of sex discrimination by showing by a preponderance of the evidence (1) that she is a member of a protected class; (2) that she applied and was qualified for the job for which NCCU was seeking applicants; (3) that, despite her qualifications, she was rejected in favor of a person not a member of the protected class.

After the employee establishes a *prima facie* case of sex discrimination, the employer must articulate some legitimate non-discriminatory reason for the employment action.

The employee must then prove, by a preponderance of the evidence, that the employer's asserted reason is actually a pretext for intentional discrimination.

2. Petitioner made a *prima facie* showing of sex discrimination in Respondent's failure to promote her to the position of Police and Public Safety Director II, in that she met the minimum posted qualifications for the position and a male was hired.

Respondent, however, articulated a legitimate non-discriminatory reason for its decision not to select Petitioner: that Petitioner's combination of education and experience was not substantially equivalent to that of the five applicants selected by the Search Committee.

Petitioner's evidence, considered in its entirety, was insufficient to prove that Respondent's stated reason was a pretext for intentional sex discrimination.

**RETALIATION**

3. To show unlawful retaliation, Petitioner must show by the preponderance of the evidence that the employer intentionally retaliated against her by taking adverse employment action. Petitioner must first establish a *prima facie* case showing that (1) she engaged in statutorily protected expression; (2) she suffered an adverse action by her employer; and (3) there is a causal link between the protected expression and the adverse action.

If the employee can make out a *prima facie* case, the employer must articulate a nonretaliatory reason for the adverse employment action. The burden is then on the employee to show, by the preponderance of the evidence, that the employer's asserted reason was pretextual, i.e., that the adverse action would not have occurred but for the protected conduct.

4. Petitioner established a *prima facie* showing of retaliation in Respondent's failure to promote her to the position of Police and Public Safety Director II, in that she had filed charges against NCCU prior to applying for the Director's position, and some members of the Search Committee, including the Chairman, testified that they knew about the charges.

Respondent, however, articulated a legitimate non-retaliatory reason for its decision not to select Petitioner: that Petitioner's combination of education and experience was not substantially equivalent to that of the five applicants selected by the Search Committee.

Petitioner's evidence, considered in its entirety, was insufficient to prove that Respondent's stated reason was a pretext for intentional retaliation.

**STATE EMPLOYEE PREFERENCE**

5. Petitioner did not demonstrate that she was entitled to application of State employee priority consideration for the Director's position, in that she failed to show that her education and experience was substantially equivalent to the education and experience of non-State employee applicants the Search Committee selected. Search Committee members credibly testified that they did not find Petitioner's education and experience to be substantially equivalent to any of the five applicants they selected, based on their assessment of the candidates' application materials in light of the posted job-related qualifications.

**RECOMMENDATION**

It is Recommended that Respondent take no action in this matter.

**ORDER**

It is hereby ordered that the agency serve a copy of the final decision on the Office of Administrative Hearings, P.O. Drawer 27447, Raleigh, N.C. 27611-7447, in accordance with North Carolina General Statute 150B-36(b).

**NOTICE**

The agency making the final decision in this contested case is required to give each party an opportunity to file exceptions to this recommended decision and to present written arguments to those in the agency who will make the final decision. G.S. 150B-36(a).

The agency is required by G.S. 150B-36(b) to serve a copy of the final decision on all parties and to furnish a copy to the parties' attorney of record and to the Office of Administrative Hearings.

The agency that will make the final decision in this contested case is the North Carolina State Personnel Commission.

This the 3rd day of October, 1996.

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Dolores Nesnow Smith  
Administrative Law Judge

**T**he North Carolina Administrative Code (NCAC) has four major subdivisions of rules. Two of these, titles and chapters, are mandatory. The major subdivision of the NCAC is the title. Each major department in the North Carolina executive branch of government has been assigned a title number. Titles are further broken down into chapters which shall be numerical in order. The other two, subchapters and sections are optional subdivisions to be used by agencies when appropriate.

## TITLE/MAJOR DIVISIONS OF THE NORTH CAROLINA ADMINISTRATIVE CODE

TITLE	DEPARTMENT	LICENSING BOARDS	CHAPTER
1	Administration	Acupuncture	1
2	Agriculture	Architecture	2
3	Auditor	Auctioneers	4
4	Commerce	Barber Examiners	6
5	Correction	Certified Public Accountant Examiners	8
6	Council of State	Chiropractic Examiners	10
7	Cultural Resources	General Contractors	12
8	Elections	Cosmetic Art Examiners	14
9	Governor	Dental Examiners	16
10	Human Resources	Dietetics/Nutrition	17
11	Insurance	Electrical Contractors	18
12	Justice	Electrolysis	19
13	Labor	Foresters	20
14A	Crime Control & Public Safety	Geologists	21
15A	Environment, Health, and Natural Resources	Hearing Aid Dealers and Fitters	22
16	Public Education	Landscape Architects	26
17	Revenue	Landscape Contractors	28
18	Secretary of State	Marital and Family Therapy	31
19A	Transportation	Medical Examiners	32
20	Treasurer	Midwifery Joint Committee	33
*21	Occupational Licensing Boards	Mortuary Science	34
22	Administrative Procedures	Nursing	36
23	Community Colleges	Nursing Home Administrators	37
24	Independent Agencies	Occupational Therapists	38
25	State Personnel	Opticians	40
26	Administrative Hearings	Optometry	42
27	NC State Bar	Osteopathic Examination & Reg. (Repealed)	44
		Pastoral Counselors, Fee-Based Practicing	45
		Pharmacy	46
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		Plumbing, Heating & Fire Sprinkler Contractors	50
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Note: Title 21 contains the chapters of the various occupational licensing boards.

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This index provides information related to notices, rules and other documents published in the Register. The information provided below includes notices and rules published on or after December 1, 1995 and will be cumulative through March 1997. For assistance contact the Rules Division at 919/733-2678.

**Fiscal Note:** S = Rule affects the expenditure or distribution of state funds. L = Rule affects the expenditure or distribution of local government funds. SE = Rule has a substantial economic impact of at least \$5,000,000 in a 12-month period. \* = Rule-making agency has determined that the rule does not impact state or local funds and does not have a substantial economic impact. See G.S. 150B-21.4.

**ACUPUNCTURE LICENSING BOARD**

21 NCAC 01 .0301	10:22 NCR 2860	10:22 NCR 2834	*	Approve	04/18/96	*	11:04 NCR 220
21 NCAC 01 .0705	10:17 NCR 2228	10:22 NCR 2834	*	Approve	04/18/96	*	11:04 NCR 220

**ADMINISTRATIVE HEARINGS**

Hearings Division									
26 NCAC 03 .0301	11:03 NCR 110	11:09 NCR 588	*	Approve	10/17/96				
26 NCAC 03 .0302	11:03 NCR 110	11:09 NCR 588	*	Approve	10/17/96				
26 NCAC 03 .0303	11:03 NCR 110	11:09 NCR 588	*	Approve	10/17/96				
26 NCAC 03 .0304	11:03 NCR 110	11:09 NCR 588	*	Approve	10/17/96				
26 NCAC 03 .0305	11:03 NCR 110	11:09 NCR 588	*	Approve	10/17/96				

**Rules Division**

26 NCAC 02C .0102	11:09 NCR 570	11:13 NCR 1058	*						
26 NCAC 02C .0103	11:09 NCR 570	11:13 NCR 1058	*						
26 NCAC 02C .0111	11:09 NCR 570	11:13 NCR 1058	*						
26 NCAC 02C .0307	11:09 NCR 570	11:13 NCR 1058	*						
26 NCAC 02C .0401	11:09 NCR 570	11:13 NCR 1058	*						
26 NCAC 02C .0502	11:09 NCR 570	11:13 NCR 1058	*						

**ADMINISTRATION**

1 NCAC 39 .0101	10:16A NCR 1672	11:14 NCR 1111	*						
1 NCAC 39 .0201	10:16A NCR 1672	11:14 NCR 1111	*						
<b>State Building Commission</b>									
1 NCAC 30G .0101		11:04 NCR 194							

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<b>AGRICULTURE</b>										
1 NCAC 30G .0102		10:24 NCR 3056	11:05 NCR 282	*	11:06 NCR 324		*			
1 NCAC 30G .0103		10:24 NCR 3056	11:05 NCR 282	*	11:06 NCR 324		*			
1 NCAC 30G .0104		10:24 NCR 3056	11:05 NCR 282	*	11:06 NCR 324		*			
1 NCAC 30G .0105		10:24 NCR 3056	11:05 NCR 282	*	11:06 NCR 324		*			
2 NCAC 09C .0701		10:24 NCR 3056	11:05 NCR 282	*	11:06 NCR 324		*			
2 NCAC 09C .0702		10:24 NCR 3056	11:05 NCR 282	*	11:06 NCR 324		*			
2 NCAC 09C .0704		10:24 NCR 3056	11:05 NCR 282	*	11:06 NCR 324		*			
2 NCAC 48A .0206		10:24 NCR 3056	11:05 NCR 282	*	11:06 NCR 324		*			
2 NCAC 48A .0211		10:24 NCR 3056	11:05 NCR 282	*	11:06 NCR 324		*			
2 NCAC 48A .0214		10:24 NCR 3056	11:05 NCR 282	*	11:06 NCR 324		*			
2 NCAC 48A .1103		10:24 NCR 3056	11:05 NCR 282	*	11:06 NCR 324		*			
2 NCAC 48A .1110		10:24 NCR 3056	11:05 NCR 282	*	11:06 NCR 324		*			
2 NCAC 48B .0112		10:24 NCR 3056	11:05 NCR 282	*	11:06 NCR 324		*			
2 NCAC 48B .0114		10:24 NCR 3056	11:05 NCR 282	*	11:06 NCR 324		*			
2 NCAC 48B .0119		10:24 NCR 3056	11:05 NCR 282	*	11:06 NCR 324		*			
2 NCAC 48B .0120		10:24 NCR 3056	11:05 NCR 282	*	11:06 NCR 324		*			
2 NCAC 52B .0200		11:14 NCR 1107			11:06 NCR 324		*			
2 NCAC 52B .0201		10:24 NCR 3056			11:06 NCR 324		*			
2 NCAC 52B .0300		11:14 NCR 1107			11:06 NCR 324		*			
2 NCAC 52C .0700		11:14 NCR 1107			11:06 NCR 324		*			
<b>Marketing Authority</b>										
2 NCAC 43F		11:14 NCR 1107			11:11 NCR 883		*			
2 NCAC 43H		11:14 NCR 1107			11:11 NCR 883		*			
<b>Plant Conservation Board</b>										
2 NCAC 48F .0301		11:07 NCR 407			11:11 NCR 883		*			
2 NCAC 48F .0302		11:07 NCR 407			11:11 NCR 883		*			

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2 NCAC 48F.0304		11:07 NCR 407			11:11 NCR 883				
2 NCAC 48F.0305		11:07 NCR 407			11:11 NCR 883				
2 NCAC 48F.0306		11:07 NCR 407			11:11 NCR 883				
4 NCAC 01E		11:09 NCR 569							
4 NCAC 01F		11:09 NCR 569							
4 NCAC 01H		11:09 NCR 569							
4 NCAC 01I		11:09 NCR 569							
4 NCAC 01J		11:09 NCR 569							
4 NCAC 01K		11:09 NCR 569							
<b>Community Assistance</b>									
4 NCAC 01K.0501		11:09 NCR 569							
4 NCAC 01K.0502		11:09 NCR 569							
4 NCAC 01K.0503		11:09 NCR 569							
4 NCAC 01K.0504		11:09 NCR 569							
4 NCAC 01K.0505		11:09 NCR 569							
4 NCAC 01K.0506		11:09 NCR 569							
4 NCAC 19L.0401		11:09 NCR 569							
4 NCAC 19L.0403		11:09 NCR 569							
4 NCAC 19L.0404		11:09 NCR 569							
4 NCAC 19L.0407		11:09 NCR 569							
4 NCAC 19L.0501		11:09 NCR 569							
4 NCAC 19L.0502		11:09 NCR 569							
4 NCAC 19L.0505		11:09 NCR 569							
4 NCAC 19L.0706		11:09 NCR 569							
4 NCAC 19L.0707		11:09 NCR 569							
4 NCAC 19L.0708		11:09 NCR 569							
4 NCAC 19L.0802		11:09 NCR 569							

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4 NCAC 19L.0805			11:09 NCR 569					11:14 NCR 1113	*	
4 NCAC 19L.0901			11:09 NCR 569					11:14 NCR 1113	*	
4 NCAC 19L.0906			11:09 NCR 569					11:14 NCR 1113	*	
4 NCAC 19L.0907			11:09 NCR 569					11:14 NCR 1113	*	
4 NCAC 19L.0911			11:09 NCR 569					11:14 NCR 1113	*	
4 NCAC 19L.1002			11:09 NCR 569					11:14 NCR 1113	*	
4 NCAC 19L.1004			11:09 NCR 569					11:14 NCR 1113	*	
4 NCAC 19L.1009			11:09 NCR 569					11:14 NCR 1113	*	
4 NCAC 19L.1011			11:09 NCR 569					11:14 NCR 1113	*	
4 NCAC 19L.1301			11:09 NCR 569					11:14 NCR 1113	*	
4 NCAC 19L.1302			11:09 NCR 569					11:14 NCR 1113	*	
4 NCAC 19L.1303			11:09 NCR 569					11:14 NCR 1113	*	
4 NCAC 19L.1701			11:09 NCR 569					11:14 NCR 1113	*	
4 NCAC 19L.1702			11:09 NCR 569					11:14 NCR 1113	*	
4 NCAC 19L.1703			11:09 NCR 569					11:14 NCR 1113	*	
4 NCAC 19L.1801			11:09 NCR 569					11:14 NCR 1113	*	
4 NCAC 19L.1802			11:09 NCR 569					11:14 NCR 1113	*	
4 NCAC 19L.1803			11:09 NCR 569					11:14 NCR 1113	*	
4 NCAC 19L.1804			11:09 NCR 569					11:14 NCR 1113	*	
4 NCAC 19L.1805			11:09 NCR 569					11:14 NCR 1113	*	
4 NCAC 19L.1900			11:09 NCR 569							
<b>Credit Union Division</b>										
4 NCAC 06C.0205					10:18 NCR 2398					
4 NCAC 06C.0407					10:18 NCR 2398					
4 NCAC 06C.0409					10:18 NCR 2398					
<b>Energy</b>										
4 NCAC 12C.0007										
<b>State Ports Authority</b>										

Approve 07/18/96

11:10 NCR 843

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4 NCAC 13A.0101	10:24 NCR 3056				11:13 NCR 1040	*				
4 NCAC 13A.0102	10:24 NCR 3056				11:13 NCR 1040	*				
4 NCAC 13A.0105	10:24 NCR 3056				11:13 NCR 1040	*				
4 NCAC 13A.0202	10:24 NCR 3056				11:13 NCR 1040	*				
4 NCAC 13A.0203	10:24 NCR 3056				11:13 NCR 1040	*				
4 NCAC 13A.0204	10:24 NCR 3056				11:13 NCR 1040	*				
4 NCAC 13B.0001	10:24 NCR 3056				11:13 NCR 1040	*				
4 NCAC 13B.0002	10:24 NCR 3056				11:13 NCR 1040	*				
4 NCAC 13B.0003	10:24 NCR 3056				11:13 NCR 1040	*				
4 NCAC 13B.0004	10:24 NCR 3056				11:13 NCR 1040	*				
4 NCAC 13B.0005	10:24 NCR 3056				11:13 NCR 1040	*				
4 NCAC 13C.0001	10:24 NCR 3056				11:13 NCR 1040	*				
4 NCAC 13D.0101	10:24 NCR 3056				11:13 NCR 1040	*				
4 NCAC 13E.0101	10:24 NCR 3056				11:13 NCR 1040	*				
4 NCAC 13E.0102	10:24 NCR 3056				11:13 NCR 1040	*				
4 NCAC 13E.0103	10:24 NCR 3056				11:13 NCR 1040	*				
4 NCAC 13E.0201	10:24 NCR 3056				11:13 NCR 1040	*				
4 NCAC 13E.0202	10:24 NCR 3056				11:13 NCR 1040	*				
4 NCAC 13E.0301	10:24 NCR 3056				11:13 NCR 1040	*				
4 NCAC 13E.0302	10:24 NCR 3056				11:13 NCR 1040	*				
4 NCAC 13E.0401	10:24 NCR 3056				11:13 NCR 1040	*				
4 NCAC 13E.0402	10:24 NCR 3056				11:13 NCR 1040	*				
4 NCAC 13E.0403	10:24 NCR 3056				11:13 NCR 1040	*				
4 NCAC 13E.0404	10:24 NCR 3056				11:13 NCR 1040	*				
4 NCAC 13E.0405	10:24 NCR 3056				11:13 NCR 1040	*				
4 NCAC 13E.0501	10:24 NCR 3056				11:13 NCR 1040	*				
4 NCAC 13E.0502	10:24 NCR 3056				11:13 NCR 1040	*				
4 NCAC 13E.0601	10:24 NCR 3056				11:13 NCR 1040	*				

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4 NCAC 13E.0602 10:24 NCR 3056 11:13 NCR 1040 \*

4 NCAC 13E.0603 10:24 NCR 3056 11:13 NCR 1040 \*

4 NCAC 13E.0701 10:24 NCR 3056 11:13 NCR 1040 \*

4 NCAC 13E.0702 10:24 NCR 3056 11:13 NCR 1040 \*

4 NCAC 13E.0801 10:24 NCR 3056 11:13 NCR 1040 \*

4 NCAC 13E.0803 10:24 NCR 3056 11:13 NCR 1040 \*

4 NCAC 13E.0901 10:24 NCR 3056 11:13 NCR 1040 \*

4 NCAC 13E.0902 10:24 NCR 3056 11:13 NCR 1040 \*

4 NCAC 13F.0301 10:24 NCR 3056 11:13 NCR 1040 \*

4 NCAC 13F.0302 10:24 NCR 3056 11:13 NCR 1040 \*

**COMMUNITY COLLEGES**

23 NCAC 02D.0325 10:24 NCR 3058 11:09 NCR 585 \*

23 NCAC 02E.0203 10:24 NCR 3058 11:09 NCR 585 \*

23 NCAC 03A.0113 10:24 NCR 3058 11:09 NCR 585 \*

**CULTURAL RESOURCES**

USS North Carolina Battleship Commission

7 NCAC 05 .0202 10:18 NCR 2398 11:04 NCR 188 \*

7 NCAC 05 .0203 10:18 NCR 2398 11:04 NCR 188 \*

7 NCAC 05 .0204 10:18 NCR 2398 11:04 NCR 188 \*

7 NCAC 05 .0207 10:18 NCR 2398 11:04 NCR 188 \*

**ENVIRONMENT, HEALTH, AND NATURAL RESOURCES**

15A Public Notice 10:19 NCR 2506 11:01 NCR 2

15A Public Notice 11:06 NCR 368 11:09 NCR 590

15A NCAC 01K 11:06 NCR 368

15A NCAC 01M.0101 11:06 NCR 368

15A NCAC 01M.0102 11:06 NCR 368

15A NCAC 01M.0201 11:06 NCR 368

15A NCAC 01M.0202 11:06 NCR 368

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<b>Coastal Resources Commission</b>										
15A NCAC 01M .0301		11:04 NCR 183			11:07 NCR 409	*				11:09 NCR 575
15A NCAC 01M .0302		11:06 NCR 368			11:04 NCR 190	*				Notice Subject Matter
15A NCAC 01M .0303		11:06 NCR 368			11:11 NCR 907	*				
15A NCAC 01M .0304		11:06 NCR 368			11:07 NCR 409	*				11:09 NCR 575
15A NCAC 01M .0305		11:06 NCR 368								
15A NCAC 01M .0306		11:06 NCR 368								
15A NCAC 07H .0104	10:24 NCR 3045									
15A NCAC 07H .0106	10:16 NCR 1921									
15A NCAC 07H .0208	11:04 NCR 183									
15A NCAC 07H .0304	10:24 NCR 3045									
15A NCAC 07H .0304	11:15 NCR 1200		11:15 NCR 1226							
15A NCAC 07H .0305	11:15 NCR 1200		11:15 NCR 1226							
15A NCAC 07H .0306	11:04 NCR 183				11:11 NCR 907	*				
15A NCAC 07H .0309	11:08 NCR 442				11:12 NCR 981	*				
15A NCAC 07H .1104	11:04 NCR 183				11:11 NCR 907	*				
15A NCAC 07H .1202	11:04 NCR 183				11:11 NCR 907	*				
15A NCAC 07H .1204	11:04 NCR 183				11:11 NCR 907	*				
15A NCAC 07H .1205	11:04 NCR 183				11:11 NCR 907	*				
15A NCAC 07H .1304	11:04 NCR 183				11:11 NCR 907	*				
15A NCAC 07H .1404	11:04 NCR 183				11:11 NCR 907	*				
15A NCAC 07H .1504	11:04 NCR 183				11:11 NCR 907	*				
15A NCAC 07H .1600	11:15 NCR 1200									
15A NCAC 07H .1704	11:04 NCR 183									11:11 NCR 907
15A NCAC 07H .1804	11:04 NCR 183									11:11 NCR 907
15A NCAC 07H .1904	11:04 NCR 183									11:11 NCR 907
15A NCAC 07H .2004	11:04 NCR 183									11:11 NCR 907

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15A NCAC 07H .2104	11:04 NCR 183				11:11 NCR 907	*				
15A NCAC 07J .0102	10:24 NCR 3045				11:04 NCR 190	*				
15A NCAC 07K .0203	11:04 NCR 183				11:11 NCR 907	*				
15A NCAC 07M .0301	10:16B NCR 1921				11:11 NCR 907	*				
15A NCAC 07M .0302	10:16B NCR 1921				11:11 NCR 907	*				
15A NCAC 07M .0303	10:16B NCR 1921				11:11 NCR 907	*				
15A NCAC 07M .0304	10:16B NCR 1921				11:11 NCR 907	*				
15A NCAC 07M .0305	10:16B NCR 1921				11:11 NCR 907	*				
15A NCAC 07M .0306	10:16B NCR 1921				11:11 NCR 907	*				
15A NCAC 07M .0307	10:16B NCR 1921				11:11 NCR 907	*				
15A NCAC 07M .0308	10:16B NCR 1921				11:11 NCR 907	*				
15A NCAC 07M .0309	10:16B NCR 1921				11:11 NCR 907	*				
15A NCAC 07M .0401	10:16B NCR 1921				11:11 NCR 907	*				
15A NCAC 07M .0402	10:16B NCR 1921				11:11 NCR 907	*				
15A NCAC 07M .0403	10:16B NCR 1921				11:11 NCR 907	*				
<b>Environmental Management Commission</b>										
15A NCAC 02	10:24 NCR 3045									
15A NCAC 02	11:04 NCR 183									
15A NCAC 02B .0223	11:02 NCR 75									
15A NCAC 02B .0223	11:03 NCR 109				11:12 NCR 973	*				
15A NCAC 02B .0224	10:18 NCR 2400				11:12 NCR 973	*				
15A NCAC 02B .0227	10:18 NCR 2400				11:09 NCR 572	*				
15A NCAC 02B .0229	11:03 NCR 109				11:10 NCR 824	LSE				
15A NCAC 02B .0231	11:02 NCR 75				11:14 NCR 1136					
15A NCAC 02B .0232	11:02 NCR 75				11:10 NCR 824	L				
15A NCAC 02B .0233	11:02 NCR 75				11:14 NCR 1136					
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15A NCAC 02B .0234	11:02 NCR 75				11:10 NCR 824	*				
15A NCAC 02B .0235	11:02 NCR 75				11:14 NCR 1136					
15A NCAC 02B .0236	11:02 NCR 75				11:10 NCR 824	*				
15A NCAC 02B .0303	10:18 NCR 2400				11:14 NCR 1136					
15A NCAC 02B .0315	11:02 NCR 75				11:10 NCR 824					
15A NCAC 02D .0101	11:15 NCR 1200				11:14 NCR 1136					
15A NCAC 02D .0104	11:15 NCR 1200				11:12 NCR 973	*				
15A NCAC 02D .0105	11:15 NCR 1200				11:09 NCR 572					
15A NCAC 02D .0108	11:15 NCR 1200				L					
15A NCAC 02D .0202	11:15 NCR 1200									
15A NCAC 02D .0302	11:15 NCR 1200									
15A NCAC 02D .0307	11:15 NCR 1200									
15A NCAC 02D .0501	11:15 NCR 1200									
15A NCAC 02D .0518	10:24 NCR 3045									
15A NCAC 02D .0521	11:15 NCR 1200									
15A NCAC 02D .0524	10:24 NCR 3045									
15A NCAC 02D .0531	11:15 NCR 1200									
15A NCAC 02D .0610	11:15 NCR 1200									
15A NCAC 02D .0902	10:24 NCR 3045									
15A NCAC 02D .0907	10:24 NCR 3045									
15A NCAC 02D .0909	10:24 NCR 3045									
15A NCAC 02D .0910	10:24 NCR 3045									
15A NCAC 02D .0911	10:24 NCR 3045									

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15A NCAC 02D .0912 11:15 NCR 1200  
 15A NCAC 02D .0946 10:24 NCR 3045  
 15A NCAC 02D .0953 11:15 NCR 1200  
 15A NCAC 02D .0954 10:24 NCR 3045  
 15A NCAC 02D .0954 11:15 NCR 1200  
 15A NCAC 02D .1005 11:15 NCR 1200  
 15A NCAC 02D .1100 11:08 NCR 442  
 15A NCAC 02D .1107 11:15 NCR 1200  
 15A NCAC 02D .1110 10:24 NCR 3045  
 15A NCAC 02D .1111 10:24 NCR 3045  
 15A NCAC 02D .1203 11:15 NCR 1200  
 15A NCAC 02D .1402 10:24 NCR 3045  
 15A NCAC 02D .1403 10:24 NCR 3045  
 15A NCAC 02D .2200 11:15 NCR 1200  
 15A NCAC 02H .0225 11:15 NCR 1200  
 15A NCAC 02H .0610 11:08 NCR 442  
 15A NCAC 02H .1202 11:15 NCR 1200  
 15A NCAC 02H .1203 11:15 NCR 1200  
 15A NCAC 02H .1204 11:15 NCR 1200  
 15A NCAC 02H .1205 11:15 NCR 1200  
 15A NCAC 02L .1106 11:15 NCR 1204  
 15A NCAC 02L .0115 11:15 NCR 1200  
 15A NCAC 02L .0115 11:15 NCR 1204  
 15A NCAC 02L .0202 10:20 NCR 2591  
 15A NCAC 02N 11:15 NCR 1200  
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15A NCAC 02P	11:15 NCR 1200 11:15 NCR 1204	10:19 NCR 2512		*						
15A NCAC 02P .0402					11:06 NCR 350					
15A NCAC 02Q .0102	10:24 NCR 2400				11:08 NCR 472		S/L			
15A NCAC 02Q .0104	10:24 NCR 2400				11:08 NCR 472		*			
15A NCAC 02Q .0107	10:18 NCR 2400				11:08 NCR 472		*			
15A NCAC 02Q .0507	10:24 NCR 2400				11:08 NCR 472		S/L			
15A NCAC 02Q .0512	10:24 NCR 2400				11:08 NCR 472		S/L			
15A NCAC 02Q .0514	10:24 NCR 2400				11:08 NCR 472		S/L			
15A NCAC 02Q .0515	10:24 NCR 2400				11:08 NCR 472		S/L			
15A NCAC 02Q .0517	10:24 NCR 2400				11:08 NCR 472		S/L			
15A NCAC 02Q .0700	11:08 NCR 442									
NPDES Permits										
NPDES Permits										
Health Services, Commission for										
15A NCAC 13B .1627	11:08 NCR 442				11:13 NCR 1055	*				
15A NCAC 13B .1800	11:08 NCR 442									
15A NCAC 13C .0301	10:18 NCR 2317				11:06 NCR 357	*				
15A NCAC 13C .0302	10:18 NCR 2317				11:06 NCR 357	*				
15A NCAC 13C .0303	10:18 NCR 2317				11:06 NCR 357	*				
15A NCAC 13C .0304	10:18 NCR 2317				11:06 NCR 357	*				
15A NCAC 13C .0305	10:18 NCR 2317				11:06 NCR 357	*				
15A NCAC 13C .0306	10:18 NCR 2317				11:06 NCR 357	*				
15A NCAC 13C .0307	10:18 NCR 2317				11:06 NCR 357	*				
15A NCAC 13C .0308	10:18 NCR 2317				11:06 NCR 357	*				
15A NCAC 18A	11:04 NCR 183									
15A NCAC 18A .0134	11:08 NCR 442									
	11:12 NCR 987									

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15A NCAC 18A.0136	11:08 NCR 442				11:12 NCR 987	*				
15A NCAC 18A.0137	11:08 NCR 442				11:12 NCR 987	*				
15A NCAC 18A.0159	11:08 NCR 442				11:12 NCR 987	*				
15A NCAC 18A.0168	11:08 NCR 442				11:12 NCR 987	*				
15A NCAC 18A.0169	11:08 NCR 442				11:12 NCR 987	*				
15A NCAC 18A.0173	11:08 NCR 442				11:12 NCR 987	*				
15A NCAC 18A.0174	11:08 NCR 442				11:12 NCR 987	*				
15A NCAC 18A.0175	11:08 NCR 442				11:12 NCR 987	*				
15A NCAC 18A.0176	11:08 NCR 442				11:12 NCR 987	*				
15A NCAC 18A.0182	11:08 NCR 442				11:12 NCR 987	*				
15A NCAC 18A.0183	11:08 NCR 442				11:12 NCR 987	*				
15A NCAC 18A.0184	11:08 NCR 442				11:12 NCR 987	*				
15A NCAC 18A.0185	11:08 NCR 442				11:12 NCR 987	*				
15A NCAC 18A.0186	11:08 NCR 442				11:12 NCR 987	*				
15A NCAC 18A.0187	11:08 NCR 442				11:12 NCR 987	*				
15A NCAC 18A.0301	11:08 NCR 442				11:12 NCR 987	*				
15A NCAC 18A.0302	11:08 NCR 442				11:12 NCR 987	*				
15A NCAC 18A.0401	11:08 NCR 442				11:12 NCR 987	*				
15A NCAC 18A.0421	11:08 NCR 442				11:12 NCR 987	*				
15A NCAC 18A.0424	11:08 NCR 442				11:12 NCR 987	*				
15A NCAC 18A.0425	11:08 NCR 442				11:12 NCR 987	*				
15A NCAC 18A.0614	11:08 NCR 442				11:12 NCR 987	*				
15A NCAC 18A.0615	11:08 NCR 442				11:12 NCR 987	*				
15A NCAC 18A.0616	11:08 NCR 442				11:12 NCR 987	*				
15A NCAC 18A.0617	11:08 NCR 442				11:12 NCR 987	*				
15A NCAC 18A.0618	11:08 NCR 442				11:12 NCR 987	*				
15A NCAC 18A.0620	11:08 NCR 442				11:12 NCR 987	*				
15A NCAC 18A.0621	11:08 NCR 442				11:12 NCR 987	*				

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15A NCAC 18A.0901	11:08 NCR 442				11:12 NCR 987	*				
15A NCAC 18A.1301	11:08 NCR 442				11:12 NCR 987	*				
15A NCAC 18A.1302	11:08 NCR 442				11:12 NCR 987	*				
15A NCAC 18A.1319	11:08 NCR 442				11:12 NCR 987	*				
15A NCAC 18A.1805	11:04 NCR 183				11:09 NCR 576	*				
15A NCAC 18A.1814										11:04 NCR 209
15A NCAC 18A.2601		11:01 NCR 24			11:05 NCR 273	*				
15A NCAC 18A.2701										11:08 NCR 536
15A NCAC 20D.0243										11:04 NCR 209
15A NCAC 21H.0111					11:06 NCR 371					
15A NCAC 21H.0113					11:06 NCR 371					
15A NCAC 21I.0101					11:07 NCR 422					
15A NCAC 21J.0101					11:07 NCR 422					
<b>Marine Fisheries Commission</b>										
15A NCAC 03			11:11 NCR 881							
15A NCAC 031.0001		11:07 NCR 407			11:11 NCR 888	*				
15A NCAC 031.0005		11:07 NCR 407			11:11 NCR 888	*				
15A NCAC 031.0019					10:21 NCR 2737	*				
15A NCAC 031.0202		11:07 NCR 407			11:11 NCR 888	*				
15A NCAC 03J.0401					10:21 NCR 2688	*				
15A NCAC 03L.0102		11:07 NCR 407			11:11 NCR 888	*				
15A NCAC 03L.0201		11:07 NCR 407			11:11 NCR 888	*				
15A NCAC 03M.0202		11:03 NCR 110			11:11 NCR 938	*				
15A NCAC 03M.0204					11:14 NCR 1153					
15A NCAC 03M.0503		11:07 NCR 407			11:11 NCR 938	*				
15A NCAC 03M.0504		11:03 NCR 110			11:11 NCR 938	*				
15A NCAC 03M.0506		11:07 NCR 407			11:14 NCR 1153					
15A NCAC 03M.0507					11:11 NCR 888	*				*
					11:11 NCR 938					

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15A NCAC 03M .0511	11:03 NCR 110	11:11 NCR 938	*						
15A NCAC 03R .0006	11:07 NCR 407	11:11 NCR 888	*						
15A NCAC 03R .0007	11:07 NCR 407	11:11 NCR 888	*						
<b>Parks and Recreation</b>									
15A NCAC 12B.1206	10:18 NCR 2317	11:12 NCR 985	*						
<b>Soil and Water Conservation</b>									
15A NCAC 06E .0002	11:08 NCR 442	11:12 NCR 979	*						
15A NCAC 06E .0002	11:08 NCR 442	11:12 NCR 1004	*						
15A NCAC 06E .0003	11:08 NCR 442	11:12 NCR 979	*						
15A NCAC 06E .0005	11:12 NCR 1004	11:12 NCR 1004	*						
<b>Wildlife Resources Commission</b>									
15A NCAC 10B .0106	11:02 NCR 76	11:08 NCR 495	*						*
15A NCAC 10B .0113	11:07 NCR 408	11:12 NCR 983	*						*
15A NCAC 10B .0115	11:07 NCR 408	11:12 NCR 984	*						*
15A NCAC 10B .0115	11:11 NCR 882	11:12 NCR 959	*						*
15A NCAC 10B .0116	11:12 NCR 959	11:08 NCR 495	*						*
15A NCAC 10B .0123	11:02 NCR 76	11:08 NCR 495	*						*
15A NCAC 10B .0203	11:02 NCR 76	11:08 NCR 495	*						*
15A NCAC 10B .0208	11:02 NCR 76	11:08 NCR 495	*						*
15A NCAC 10B .0209	11:02 NCR 76	11:08 NCR 495	*						*
15A NCAC 10C .0107	11:02 NCR 76	11:08 NCR 495	*						*
15A NCAC 10C .0205	11:02 NCR 76	11:08 NCR 495	*						*
15A NCAC 10C .0305	11:02 NCR 76	11:08 NCR 495	*						*
15A NCAC 10C .0401	11:02 NCR 76	11:08 NCR 495	*						*
15A NCAC 10C .0401	11:07 NCR 408	11:08 NCR 495	*						*
15A NCAC 10D .0002	11:02 NCR 76	11:08 NCR 495	*						*
15A NCAC 10D .0003	11:02 NCR 76	11:08 NCR 495	*						*
15A NCAC 10F .0102	10:19 NCR 2506	11:01 NCR 14	*						11:10 NCR 843
									*
									*
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15A NCAC 10F .0103	10:19 NCR 2506		11:01 NCR 14	*	Approve	07/18/96	*		11:10 NCR 843
15A NCAC 10F .0104	10:19 NCR 2506		11:01 NCR 14	*	Approve	08/15/96	*		11:12 NCR 1006
15A NCAC 10F .0105	10:19 NCR 2506		11:01 NCR 14	*	Approve	08/15/96	*		11:12 NCR 1006
15A NCAC 10F .0106	10:19 NCR 2506		11:01 NCR 14	*	Approve	07/18/96	*		11:10 NCR 843
15A NCAC 10F .0107	10:19 NCR 2506		11:01 NCR 14	*	Approve	07/18/96	*		11:10 NCR 843
15A NCAC 10F .0109	10:19 NCR 2506		11:01 NCR 14	*	Approve	07/18/96	*		11:10 NCR 843
15A NCAC 10F .0300	11:01 NCR 13								
15A NCAC 10F .0302	11:05 NCR 272		11:14 NCR 1150	*					
15A NCAC 10F .0303	10:24 NCR 3057		11:06 NCR 355	*	Approve	09/19/96			11:14 NCR 1156
15A NCAC 10F .0305	10:19 NCR 2506		11:01 NCR 14	*	Approve	07/18/96			11:10 NCR 843
15A NCAC 10F .0307	11:02 NCR 76		11:07 NCR 412	*	Approve	10/17/96			
15A NCAC 10F .0307	11:08 NCR 451		11:14 NCR 1150	*					
15A NCAC 10F .0310	10:19 NCR 2506		11:01 NCR 14	*	Approve	07/18/96			11:10 NCR 843
15A NCAC 10F .0310	10:24 NCR 3057		11:06 NCR 355	*	Approve	09/19/96			11:14 NCR 1156
15A NCAC 10F .0317	11:13 NCR 1039								
15A NCAC 10F .0327	11:14 NCR 1109								
15A NCAC 10F .0339	11:13 NCR 1039		11:01 NCR 14	*					
15A NCAC 10F .0342	10:19 NCR 2506		11:01 NCR 14	*					
15A NCAC 10F .0348	10:19 NCR 2506		11:01 NCR 14	*	Withdrawn/Agency	07/18/96	*		11:10 NCR 843
15A NCAC 10G	11:01 NCR 13								
15A NCAC 10G .0100	11:02 NCR 76								
15A NCAC 10G .0102	11:01 NCR 13		11:07 NCR 412	*	Approve	10/17/96			
15A NCAC 10G .0103	11:01 NCR 13		11:07 NCR 412	*	Approve	10/17/96			
15A NCAC 10G .0202	11:01 NCR 13		11:07 NCR 412	*	Approve	10/17/96			
15A NCAC 10G .0203	11:01 NCR 13		11:07 NCR 412	*	Approve	10/17/96			
15A NCAC 10G .0206	11:01 NCR 13		11:07 NCR 412	*	Approve	10/17/96			
15A NCAC 10G .0302	11:01 NCR 13		11:07 NCR 412	*	Approve	10/17/96			
15A NCAC 10G .0303	11:01 NCR 13		11:07 NCR 412	*	Approve	10/17/96			

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15A NCAC 10G .0401	11:01 NCR 13	11:07 NCR 412	*	Approve	10/17/96				
15A NCAC 10G .0402	11:01 NCR 13	11:07 NCR 412	*	Approve	10/17/96	*			
15A NCAC 10G .0403	11:01 NCR 13	11:07 NCR 412	*	Approve	10/17/96	*			
15A NCAC 10G .0404	11:01 NCR 13	11:07 NCR 412	*	Approve	10/17/96	*			
15A NCAC 10G .0501	11:01 NCR 13	11:07 NCR 412	*	Approve	10/17/96	*			
15A NCAC 101 .00001	10:22 NCR 2829	11:04 NCR 191	*	Approve	09/19/96				
15A NCAC 101 .00002	11:02 NCR 76	11:08 NCR 495	*	Approve	10/17/96	*			
	Wildlife Proclamation						11:03 NCR 104		
	Wildlife Proclamation						11:04 NCR 182		
<b>FINAL DECISION LETTERS</b>									
Voting Rights Act							11:01 NCR 1		
Voting Rights Act							11:04 NCR 181		
Voting Rights Act							11:06 NCR 315		
Voting Rights Act							11:07 NCR 405		
Voting Rights Act							11:13 NCR 1038		
<b>GENERAL CONTRACTORS LICENSING BOARD</b>									
21 NCAC 12 .0204	10:22 NCR 2829	11:06 NCR 372	11:09 NCR 583	*	Approve	10/17/96			
21 NCAC 12 .0503	10:22 NCR 2829	11:06 NCR 372	11:09 NCR 584	*	Approve	10/17/96	*		
<b>GOVERNOR'S EXECUTIVE ORDERS</b>									
Number 95 - Eff. 04/24/96							11:05 NCR 270		
Number 96 - Eff. 06/14/96							11:08 NCR 441		
Number 97 - Eff. 07/12/96							11:10 NCR 817		
Number 98 - Eff. 08/09/96							11:11 NCR 880		
Number 99 - Eff. 09/05/96							11:14 NCR 1101		
Number 100 - Eff. 09/12/96							11:14 NCR 1101		
Number 101 - Eff. 09/12/96							11:14 NCR 1101		
Number 102 - Eff. 10/02/96							11:15 NCR 1197		
Number 103 - Eff. 10/10/96							11:15 NCR 1197		

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Number 104 - Eff. 10/10/96

**HOUSING FINANCE AGENCY**

24 NCAC 01P .0101				11:14 NCR 1154				
24 NCAC 01P .0102				11:14 NCR 1154				
24 NCAC 01P .0103				11:14 NCR 1154				
24 NCAC 01P .0201				11:14 NCR 1154				
24 NCAC 01P .0202				11:14 NCR 1154				
24 NCAC 01P .0203				11:14 NCR 1154				

**HUMAN RESOURCES**

10 NCAC 41P .0013	11:06 NCR 323	11:08 NCR 528	11:12 NCR 966	L
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*Aging*

10 NCAC 22	10:23 NCR 2956			
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**Child Day Care Commission**

10 NCAC 03U .0102		10:20 NCR 2593	11:10 NCR 819	S	Object	10/17/96		
10 NCAC 03U .0604	11:03 NCR 109		11:09 NCR 571	*				
10 NCAC 03U .0700	11:08 NCR 449							
10 NCAC 03U .0704	10:19 NCR 2506		11:04 NCR 188	*	Object	10/17/96		
10 NCAC 03U .0705	11:14 NCR 1108							
10 NCAC 03U .0710	10:22 NCR 2829		11:04 NCR 188	*	Object	10/17/96		
10 NCAC 03U .0901	11:08 NCR 449							
10 NCAC 03U .1717	11:14 NCR 1108							
10 NCAC 03U .2510	11:08 NCR 449							
10 NCAC 03U .2606	11:08 NCR 449							
10 NCAC 03U .2701		10:20 NCR 2593	11:10 NCR 819	S	Object	10/17/96		
10 NCAC 03U .2702		10:20 NCR 2593	11:10 NCR 819	S	Object	10/17/96		
10 NCAC 03U .2703		10:20 NCR 2593	11:10 NCR 819	S	Object	10/17/96		
10 NCAC 03U .2704		10:20 NCR 2593	11:10 NCR 819	S	Object	10/17/96		

11:15 NCR 1197

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11:06 NCR 316										
10 NCAC 50D										
10 NCAC 50D .0101	10:24 NCR 3057		11:04 NCR 196							
10 NCAC 50D .0102	10:24 NCR 3057		11:04 NCR 196							
10 NCAC 50D .0103	10:24 NCR 3057		11:04 NCR 196							
10 NCAC 50D .0201	10:24 NCR 3057		11:04 NCR 196							
10 NCAC 50D .0301	10:24 NCR 3057		11:04 NCR 196							
10 NCAC 50D .0302	10:24 NCR 3057		11:04 NCR 196							
10 NCAC 50D .0401	10:24 NCR 3057		11:04 NCR 196							
10 NCAC 50D .0402	10:24 NCR 3057		11:04 NCR 196							
10 NCAC 50D .0501	10:24 NCR 3057		11:04 NCR 196							
10 NCAC 50D .0502	10:24 NCR 3057		11:04 NCR 196							
10 NCAC 50D .0503	10:24 NCR 3057		11:04 NCR 196							
11:04 NCR 206										
Approve 04/18/96										
Medical Care Commission										
10 NCAC 03C .6208										
Mental Health, Developmental Disabilities and Substance Abuse Services										
10 NCAC 14V .3402	11:08 NCR 449				11:14 NCR 1124	*				
10 NCAC 14V .3803	11:08 NCR 449				11:14 NCR 1124	*				
10 NCAC 14V .5602	11:08 NCR 449				11:14 NCR 1124	*				
10 NCAC 15A .0128	11:08 NCR 449				11:14 NCR 1124	*				
10 NCAC 15A .0129	11:08 NCR 449				11:14 NCR 1124	*				
10 NCAC 18W .0201	10:15 NCR 1478				11:14 NCR 1124	S				
10 NCAC 18W .0202	10:15 NCR 1478				11:14 NCR 1124	S				
10 NCAC 18W .0203	10:15 NCR 1478				11:14 NCR 1124	S				
10 NCAC 18W .0204	10:15 NCR 1478				11:14 NCR 1124	S				
10 NCAC 18W .0205	10:15 NCR 1478				11:14 NCR 1124	S				
10 NCAC 18W .0206	10:15 NCR 1478				11:14 NCR 1124	S				
10 NCAC 18W .0207	10:15 NCR 1478				11:14 NCR 1124	S				
10 NCAC 18W .0208	10:15 NCR 1478				11:14 NCR 1124	S				

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10 NCAC 18W .0209	10:15 NCR 1478				11:14 NCR 1124	S				
10 NCAC 18W .0210	10:15 NCR 1478				11:14 NCR 1124	S				
10 NCAC 18W .0211	10:15 NCR 1478				11:14 NCR 1124	S				
10 NCAC 18W .0212	10:15 NCR 1478				11:14 NCR 1124	S				
10 NCAC 18W .0213	10:15 NCR 1478				11:14 NCR 1124	S				
10 NCAC 18W .0214	10:15 NCR 1478				11:14 NCR 1124	S				
10 NCAC 18W .0215	10:15 NCR 1478				11:14 NCR 1124	S				
10 NCAC 18W .0216	10:15 NCR 1478				11:14 NCR 1124	S				
10 NCAC 18W .0217	10:15 NCR 1478				11:14 NCR 1124	S				
10 NCAC 18W .0218	10:15 NCR 1478				11:14 NCR 1124	S				
10 NCAC 18W .0219	10:15 NCR 1478				11:14 NCR 1124	S				
10 NCAC 45H .0200	11:08 NCR 449									
<b>Social Services Commission</b>										
10 NCAC 41F	10:23 NCR 2956				11:03 NCR 111	L	Approve	07/18/96	*	11:15 NCR 1229
10 NCAC 41F .0705	10:23 NCR 2956				11:03 NCR 111	*	Approve	07/18/96		
10 NCAC 41F .0706					10:21 NCR 2726	S	Object	07/18/96		
10 NCAC 41F .0707					10:21 NCR 2726	S	Approve	09/19/96	*	11:15 NCR 1229
10 NCAC 41F .0812					10:21 NCR 2726	*	Approve	07/18/96		11:15 NCR 1229
10 NCAC 41F .0813					10:21 NCR 2726	S	Object	07/18/96	*	11:15 NCR 1229
10 NCAC 41F .0814	10:23 NCR 2956				11:03 NCR 111	L	Approve	07/18/96	*	11:15 NCR 1229
10 NCAC 41I .0100	10:17 NCR 2228									
10 NCAC 41I .0102	10:17 NCR 2228				10:21 NCR 2687	*				
10 NCAC 41P .0002	11:06 NCR 323				11:08 NCR 528	S				
10 NCAC 41P .0005	11:06 NCR 323				11:08 NCR 528	S				
10 NCAC 41P .0006	11:06 NCR 323				11:08 NCR 528	S				
10 NCAC 41P .0008	11:06 NCR 323				11:08 NCR 528	S				

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10 NCAC 41P.0009	11:06 NCR 323	11:08 NCR 528	11:12 NCR 960	*						
10 NCAC 41P.0010	11:06 NCR 323	11:08 NCR 528	11:12 NCR 960	*						
10 NCAC 41P.0011	11:06 NCR 323	11:08 NCR 528	11:12 NCR 960	*						
10 NCAC 41P.0012	11:06 NCR 323	11:08 NCR 528	11:12 NCR 960	*						
10 NCAC 42A.0701		10:21 NCR 2728	11:10 NCR 823	S/L/SE						
10 NCAC 42A.0702		10:21 NCR 2728	11:10 NCR 823	*						
10 NCAC 42A.0703		10:21 NCR 2728	11:10 NCR 823	*						
10 NCAC 42B.1209		10:21 NCR 2729	11:12 NCR 967	*						
10 NCAC 42B.1210		10:21 NCR 2729	11:12 NCR 967	S/L						
10 NCAC 42B.1211		10:21 NCR 2729	11:12 NCR 967	*						
10 NCAC 42B.2402		10:21 NCR 2729	11:12 NCR 967	*						
10 NCAC 42B.2403		10:21 NCR 2729	11:12 NCR 967	*						
10 NCAC 42B.2404		10:21 NCR 2729	11:12 NCR 967	*						
10 NCAC 42B.2405		10:21 NCR 2729	11:12 NCR 967	*						
10 NCAC 42C.2010		10:21 NCR 2729	11:12 NCR 967	*						
10 NCAC 42C.2011		10:21 NCR 2729	11:12 NCR 967	S/L						
10 NCAC 42C.2012		10:21 NCR 2729	11:12 NCR 967	*						
10 NCAC 42C.3701		10:21 NCR 2729	11:12 NCR 967	*						
10 NCAC 42C.3702		10:21 NCR 2729	11:12 NCR 967	*						
10 NCAC 42C.3703		10:21 NCR 2729	11:12 NCR 967	*						
10 NCAC 42C.3704		10:21 NCR 2729	11:12 NCR 967	*						
10 NCAC 42D.1409		10:21 NCR 2729	11:12 NCR 967	*						
10 NCAC 42D.1410		10:21 NCR 2729	11:12 NCR 967	S/L						
10 NCAC 42D.1411		10:21 NCR 2729	11:12 NCR 967	*						
10 NCAC 42D.1827		10:21 NCR 2729	11:12 NCR 967	*						
10 NCAC 42D.1828		10:21 NCR 2729	11:12 NCR 967	*						
10 NCAC 42D.1829		10:21 NCR 2729	11:12 NCR 967	*						
10 NCAC 42D.1830		10:21 NCR 2729	11:12 NCR 967	*						

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10 NCAC 42V.0201		10:20 NCR 2597	11:03 NCR 111	*	Approve	07/18/96	*		11:10 NCR 843
10 NCAC 42V.0802		10:20 NCR 2597	11:03 NCR 111	*	Approve	07/18/96	*		11:10 NCR 843
10 NCAC 42V.0803		10:20 NCR 2597	11:03 NCR 111	*	Approve	07/18/96	*		11:10 NCR 843
10 NCAC 49A.0002		10:08 NCR 528	11:12 NCR 960	*					
10 NCAC 49B.0202		11:08 NCR 528	11:12 NCR 960	*					
10 NCAC 49B.0310		11:08 NCR 528	11:12 NCR 960	*					
10 NCAC 49B.0502		11:08 NCR 528	11:12 NCR 960	*					
10 NCAC 49C.0107		10:18 NCR 2402							
<b>Vocational Rehabilitation Services</b>									
10 NCAC 20B.0204		11:08 NCR 450	11:13 NCR 1051	*					
10 NCAC 20B.0205		11:08 NCR 450	11:13 NCR 1051	*					
10 NCAC 20B.0206		11:08 NCR 450	11:13 NCR 1051	*					
10 NCAC 20B.0208		11:08 NCR 450	11:13 NCR 1051	*					
10 NCAC 20B.0209		11:08 NCR 450	11:13 NCR 1051	*					
10 NCAC 20B.0210		11:08 NCR 450	11:13 NCR 1051	*					
10 NCAC 20B.0214		11:08 NCR 450	11:13 NCR 1051	*					
10 NCAC 20B.0218		11:08 NCR 450	11:13 NCR 1051	*					
10 NCAC 20B.0222		11:08 NCR 450	11:13 NCR 1051	*					
10 NCAC 20B.0224		11:08 NCR 450	11:13 NCR 1051	*					
10 NCAC 20B.0226		11:08 NCR 450	11:13 NCR 1051	*					
10 NCAC 20B.0227		11:08 NCR 450	11:13 NCR 1051	*					
10 NCAC 20C.0603		11:08 NCR 450	11:13 NCR 1051	*					
10 NCAC 20D.0204		11:08 NCR 450	11:13 NCR 1051	*					
<b>INSURANCE</b>									
11 NCAC 08.1001			11:15 NCR 1212						Filed over objection
11 NCAC 08.1002			11:15 NCR 1212						Filed over objection
11 NCAC 08.1003			11:15 NCR 1212						Filed over objection
11 NCAC 08.1004			11:15 NCR 1212						Filed over objection

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					Action	Date				
11 NCAC 08.1005					11:15 NCR 1212					Filed over objection
11 NCAC 08.1006					11:15 NCR 1212					Filed over objection
11 NCAC 08.1007					11:15 NCR 1212					Filed over objection
11 NCAC 08.1008					11:15 NCR 1212					Filed over objection
11 NCAC 08.1009					11:15 NCR 1212					Filed over objection
11 NCAC 08.1010					11:15 NCR 1212					Filed over objection
11 NCAC 08.1011					11:15 NCR 1212					Filed over objection
11 NCAC 08.1101					11:15 NCR 1212					Filed over objection
11 NCAC 08.1102					11:15 NCR 1212					Filed over objection
11 NCAC 08.1103					11:15 NCR 1212					Filed over objection
11 NCAC 08.1104					11:15 NCR 1212					Filed over objection
11 NCAC 08.1105					11:15 NCR 1212					Filed over objection
11 NCAC 08.1106					11:15 NCR 1212					Filed over objection
11 NCAC 08.1107					11:15 NCR 1212					Filed over objection
11 NCAC 08.1108					11:15 NCR 1212					Filed over objection
11 NCAC 08.1109					11:15 NCR 1212					Filed over objection
11 NCAC 08.1110					11:15 NCR 1212					Filed over objection
11 NCAC 08.1111					11:15 NCR 1212					Filed over objection
11 NCAC 08.1112					11:15 NCR 1212					Filed over objection
11 NCAC 08.1113					11:15 NCR 1212					Filed over objection
11 NCAC 08.1114					11:15 NCR 1212					Filed over objection
11 NCAC 08.1115					11:15 NCR 1212					Filed over objection
11 NCAC 08.1116					11:15 NCR 1212					Filed over objection
11 NCAC 08.1201					11:15 NCR 1212					Filed over objection
11 NCAC 08.1202					11:15 NCR 1212					Filed over objection
11 NCAC 08.1203					11:15 NCR 1212					Filed over objection
11 NCAC 08.1204					11:15 NCR 1212					Filed over objection
11 NCAC 08.1205					11:15 NCR 1212					Filed over objection

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					Action	Date				
11 NCAC 08 .1206					11:15 NCR 1212					Filed over objection
11 NCAC 08 .1207					11:15 NCR 1212					Filed over objection
11 NCAC 08 .1208					11:15 NCR 1212					Filed over objection
11 NCAC 08 .1209					11:15 NCR 1212					Filed over objection
11 NCAC 10 .0602					11:15 NCR 1223					Filed over objection
11 NCAC 10 .0603					11:15 NCR 1223					Filed over objection
11 NCAC 10 .0606					11:15 NCR 1223					Filed over objection
11 NCAC 12 .0551	10:18 NCR 2399		10:22 NCR 2831	*		Approve	05/16/96			11:05 NCR 283
11 NCAC 16 .0703	10:18 NCR 2399		10:22 NCR 2832	*		Approve	05/16/96			11:05 NCR 284
<b>JUSTICE</b>										
<i>Attorney General/Company Police</i>										
12 NCAC 021 .0101						Approve	04/18/96			11:04 NCR 208
12 NCAC 021 .0206						Approve	04/18/96			11:04 NCR 208
12 NCAC 021 .0210						Approve	04/18/96			11:04 NCR 208
<i>Alarm Systems Licensing Board</i>										
12 NCAC 11 .0202		10:24 NCR 3057			11:14 NCR 1136	*				
<i>Criminal Justice Education and Training Standards Commission</i>										
12 NCAC 09A .0103					11:14 NCR 1109					
12 NCAC 09B .0102					11:14 NCR 1109					
12 NCAC 09B .0111					11:14 NCR 1109					
12 NCAC 09B .0206					11:14 NCR 1109					
12 NCAC 09B .0224					11:14 NCR 1109					
12 NCAC 09B .0225					11:14 NCR 1109					
12 NCAC 09B .0409					11:14 NCR 1109					
12 NCAC 09C .0304					11:14 NCR 1109					
12 NCAC 09C .0307					11:14 NCR 1109					
12 NCAC 09C .0309					11:14 NCR 1109					
12 NCAC 09C .0601					11:14 NCR 1109					

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12 NCAC 09C .0602 11:14 NCR 1109  
 12 NCAC 09C .0603 11:14 NCR 1109  
 12 NCAC 09C .0604 11:14 NCR 1109  
 12 NCAC 09C .0605 11:14 NCR 1109  
 12 NCAC 09C .0606 11:14 NCR 1109

**Private Protective Services Board**

12 NCAC 07D 11:10 NCR 818  
 12 NCAC 07D .0201 11:10 NCR 818  
 12 NCAC 07D .0204 11:14 NCR 1108  
 12 NCAC 07D .0504 11:10 NCR 818  
 12 NCAC 07D .0701 11:10 NCR 818  
 12 NCAC 07D .0801 11:10 NCR 818  
 12 NCAC 07D .0902 11:10 NCR 818  
 12 NCAC 07D .1106 11:14 NCR 1108

**State Bureau of Investigation/Division of Criminal Information**

12 NCAC 04E .0103 11:11 NCR 881

**LABOR**

**Occupational Safety and Health**

13 NCAC 07A .0900 11:11 NCR 881  
 13 NCAC 07F 11:03 NCR 106  
 13 NCAC 07F .0101 11:03 NCR 119  
 13 NCAC 07F .0201 11:03 NCR 106  
 13 NCAC 07F .0201 11:09 NCR 568  
 13 NCAC 07F .0301 11:03 NCR 106

**MEDICAL BOARD**

21 NCAC 32H 10:18 NCR 2400 \* Approve 04/18/96 \*  
 21 NCAC 32H .0101 10:18 NCR 2400 \* Approve 04/18/96 \*  
 21 NCAC 32H .0102 10:18 NCR 2400 10:22 NCR 2835 \* Approve 04/18/96 \*  
 21 NCAC 32H .0102 10:18 NCR 2400 10:22 NCR 2835 \* Approve 04/18/96 \*

11:04 NCR 221  
 11:04 NCR 221

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					Action	Date				
21 NCAC 32H.0201	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*			11:04 NCR 221
21 NCAC 32H.0203	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*			11:04 NCR 221
21 NCAC 32H.0301	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*			11:04 NCR 221
21 NCAC 32H.0302	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*			11:04 NCR 221
21 NCAC 32H.0303	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*			11:04 NCR 221
21 NCAC 32H.0401	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*			11:04 NCR 221
21 NCAC 32H.0402	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*			11:04 NCR 221
21 NCAC 32H.0403	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*			11:04 NCR 221
21 NCAC 32H.0404	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*			11:04 NCR 221
21 NCAC 32H.0406	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*			11:04 NCR 221
21 NCAC 32H.0407	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*			11:04 NCR 221
21 NCAC 32H.0408	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*			11:04 NCR 221
21 NCAC 32H.0409	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*			11:04 NCR 221
21 NCAC 32H.0501	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*			11:04 NCR 221
21 NCAC 32H.0502	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*			11:04 NCR 221
21 NCAC 32H.0504	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*			11:04 NCR 221
21 NCAC 32H.0505	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*			11:04 NCR 221
21 NCAC 32H.0506	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*			11:04 NCR 221
21 NCAC 32H.0507	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*			11:04 NCR 221
21 NCAC 32H.0601	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*			11:04 NCR 221
21 NCAC 32H.0602	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*			11:04 NCR 221
21 NCAC 32H.0701	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*			11:04 NCR 221
21 NCAC 32H.0702	10:18 NCR 2400		10:22 NCR 2835	*	Object	04/18/96				Returned to Agency 6/20/96
21 NCAC 32H.0801	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*			11:04 NCR 221
21 NCAC 32H.0901	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*			11:04 NCR 221
21 NCAC 32H.0902	10:18 NCR 2400		10:22 NCR 2835	*	Approve	04/18/96	*			11:04 NCR 221
<b>NURSING, BOARD OF</b>										
21 NCAC 36.0320										11:14 NCR 1109

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<b>NURSING HOME ADMINISTRATORS</b>									
21 NCAC 37D .0202					11:11 NCR 940			11:04 NCR 236	
21 NCAC 37G .0102					11:11 NCR 940			11:04 NCR 236	
<b>PSYCHOLOGY BOARD</b>									
21 NCAC 54 .2704						Approve	04/18/96		
21 NCAC 54 .2706						Approve	04/18/96		
<b>PUBLIC EDUCATION</b>									
16 NCAC 01A .0001						Approve	05/16/96		
16 NCAC 01A .0003						Approve	05/16/96		
<b>Standards Board for Public School Administration</b>									
16 NCAC 07 .0101	10:23 NCR 2957				11:09 NCR 576	*			
16 NCAC 07 .0102	10:23 NCR 2957				11:09 NCR 576	*			
16 NCAC 07 .0103	10:23 NCR 2957				11:09 NCR 576	*			
16 NCAC 07 .0104	10:23 NCR 2957				11:09 NCR 576	*			
16 NCAC 07 .0105	10:23 NCR 2957				11:09 NCR 576	*			
16 NCAC 07 .0106	10:23 NCR 2957				11:09 NCR 576	*			
16 NCAC 07 .0107	10:23 NCR 2957				11:09 NCR 576	*			
16 NCAC 07 .0108	10:23 NCR 2957				11:09 NCR 576	*			
16 NCAC 07 .0109	10:23 NCR 2957				11:09 NCR 576	*			
16 NCAC 07 .0110	10:23 NCR 2957				11:09 NCR 576	*			
16 NCAC 07 .0111	10:23 NCR 2957				11:09 NCR 576	*			
16 NCAC 07 .0112	10:23 NCR 2957				11:09 NCR 576	*			
<b>REAL ESTATE COMMISSION</b>									
21 NCAC 58A .0101	10:22 NCR 2829				11:03 NCR 114	*			
21 NCAC 58A .0104	11:07 NCR 408				11:11 NCR 935	*			
21 NCAC 58A .0105	10:22 NCR 2829				11:03 NCR 114	*			
21 NCAC 58A .0109	10:22 NCR 2829				11:03 NCR 114	*			

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					Action	Date				
21 NCAC 58A.0110	10:22 NCR 2829				11:03 NCR 114	*				
21 NCAC 58A.0302	10:22 NCR 2829				11:03 NCR 114	*				
21 NCAC 58A.0503	10:22 NCR 2829				11:03 NCR 114	*				
21 NCAC 58A.0504	10:22 NCR 2829				11:03 NCR 114	*				
21 NCAC 58A.1501	10:22 NCR 2829				11:03 NCR 114	*				
21 NCAC 58A.1502	10:22 NCR 2829				11:03 NCR 114	*				
21 NCAC 58A.1601	10:22 NCR 2835				11:03 NCR 114	*				
<b>REFRIGERATION EXAMINERS</b>										
21 NCAC 60.0204	11:05 NCR 272		11:10 NCR 839	*						11:14 NCR 1156
21 NCAC 60.0207	11:05 NCR 272		11:10 NCR 839	*						
21 NCAC 60.0314	11:05 NCR 272		11:10 NCR 839	*						
<b>REVENUE</b>										
17 NCAC 01C.0504	10:20 NCR 2599				Object	08/15/96				
17 NCAC 01C.0506	10:20 NCR 2599				Approve	09/19/96				
17 NCAC 01C.0506					Approve	08/15/96				
17 NCAC 05C.0102										
17 NCAC 05C.2101										
17 NCAC 06B.0612										
17 NCAC 06B.3716										
17 NCAC 07B.0118										
17 NCAC 07B.1101										
17 NCAC 07B.1105										
17 NCAC 07B.1108										
17 NCAC 07B.1109										
17 NCAC 07B.1110										
17 NCAC 07B.1112										

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17 NCAC 07B.1114			10:21 NCR 2688	*	Approve	04/18/96			11:04 NCR 212	
17 NCAC 07B.1123			10:21 NCR 2688	*	Approve	04/18/96	*		11:04 NCR 212	
17 NCAC 07B.1602			10:21 NCR 2688	*	Approve	04/18/96	*		11:04 NCR 212	
17 NCAC 07B.1602			11:12 NCR 998	*						
17 NCAC 07B.1701			10:21 NCR 2688	*	Approve	04/18/96	*		11:04 NCR 212	
17 NCAC 07B.1702			10:21 NCR 2688	*	Approve	04/18/96	*		11:04 NCR 212	
17 NCAC 07B.1702			11:12 NCR 998	*						
17 NCAC 07B.1802			10:21 NCR 2688	*	Approve	04/18/96	*		11:04 NCR 212	
17 NCAC 07B.1802			11:12 NCR 998	*						
17 NCAC 07B.2401			10:21 NCR 2688	*	Approve	04/18/96	*		11:04 NCR 212	
17 NCAC 07B.2601			10:21 NCR 2688	*	Approve	04/18/96			11:04 NCR 212	
17 NCAC 07B.3103			11:12 NCR 998	*						
17 NCAC 07B.3106			11:12 NCR 998	*						
17 NCAC 07B.4002			10:21 NCR 2688	*	Approve	04/18/96			11:04 NCR 212	
17 NCAC 07B.4004			10:21 NCR 2688	*	Approve	04/18/96			11:04 NCR 212	
17 NCAC 07B.4008			10:21 NCR 2688	*	Approve	04/18/96	*		11:04 NCR 212	
17 NCAC 07B.4202			11:12 NCR 998	*						
17 NCAC 07B.4301			10:21 NCR 2688	*	Approve	04/18/96	*		11:04 NCR 212	
17 NCAC 07B.4408			10:21 NCR 2688	*	Approve	04/18/96	*		11:04 NCR 212	
17 NCAC 07B.4501			11:12 NCR 998	*						
17 NCAC 07B.4902			10:21 NCR 2688	*	Approve	04/18/96	*		11:04 NCR 212	
Tax Review Board									11:02 NCR 72	
Tax Review Board									11:06 NCR 318	
Tax Review Board									11:14 NCR 1104	

**SOCIAL WORK, BOARD OF**

21 NCAC 63 .0306 10:21 NCR 2739 11:03 NCR 118 \*

**SOIL SCIENTISTS, BOARD FOR LICENSING**

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21 NCAC 69 .0101	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*	Approve	09/19/96				11:14 NCR 1156
21 NCAC 69 .0102	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*	Object	09/19/96				*
21 NCAC 69 .0103	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*	Approve	09/19/96				11:14 NCR 1156
21 NCAC 69 .0104	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*	Approve	09/19/96				11:14 NCR 1156
21 NCAC 69 .0201	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*	Approve	09/19/96				11:14 NCR 1156
21 NCAC 69 .0202	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*	Approve	09/19/96				11:14 NCR 1156
21 NCAC 69 .0301	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*	Approve	09/19/96				11:14 NCR 1156
21 NCAC 69 .0302	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*	Object	09/19/96				10/17/96 *
21 NCAC 69 .0303	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*	Object	09/19/96				10/17/96 *
21 NCAC 69 .0304	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*	Approve	09/19/96				10/17/96 *
21 NCAC 69 .0305	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*	Object	09/19/96				10/17/96 *
21 NCAC 69 .0306	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*	Approve	09/19/96				11:14 NCR 1156
21 NCAC 69 .0307	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*	Object	09/19/96				10/17/96 *
21 NCAC 69 .0308	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*	Approve	09/19/96				11:14 NCR 1156
21 NCAC 69 .0401	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*	Object	09/19/96				10/17/96 *
21 NCAC 69 .0402	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*	Object	09/19/96				10/17/96 *
21 NCAC 69 .0501	10:19 NCR 2507	11:04 NCR 200	11:04 NCR 200	*	Approve	09/19/96				11:14 NCR 1156

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					Action	Date				
<b>STATE PERSONNEL COMMISSION</b>										
25 NCAC 01D.2501					11:13 NCR 1062					
25 NCAC 01D.2503					11:13 NCR 1062					
25 NCAC 01D.2504					11:13 NCR 1062					
25 NCAC 01D.2505					11:13 NCR 1062					
25 NCAC 01D.2507					11:13 NCR 1062					
25 NCAC 01D.2508					11:13 NCR 1062					
25 NCAC 01D.2509					11:13 NCR 1062					
25 NCAC 01D.2511					11:13 NCR 1062					
25 NCAC 01D.2513					11:13 NCR 1062					
25 NCAC 01D.2514					11:13 NCR 1062					
25 NCAC 01D.2516					11:13 NCR 1062					
25 NCAC 01E.0705					11:14 NCR 1110					
25 NCAC 01E.0707					11:14 NCR 1110					
25 NCAC 01E.0709					11:14 NCR 1110					
25 NCAC 01J.0613					10:23 NCR 2960					
25 NCAC 01J.0613						Approve	03/21/96	11:01 NCR 26		
<b>SUBSTANCE ABUSE PROFESSIONALS CERTIFICATION BOARD</b>										
21 NCAC 68			10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*	11:04 NCR 238
21 NCAC 68 .0101			10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96		11:04 NCR 238
21 NCAC 68 .0102			10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96		11:04 NCR 238
21 NCAC 68 .0201			10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*	11:04 NCR 238
21 NCAC 68 .0202			10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*	11:04 NCR 238
21 NCAC 68 .0203			10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*	11:04 NCR 238
21 NCAC 68 .0204			10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*	11:04 NCR 238
21 NCAC 68 .0205			10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*	11:04 NCR 238
21 NCAC 68 .0206			10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*	11:04 NCR 238
21 NCAC 68 .0207			10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96		11:04 NCR 238

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21 NCAC 68 .0208	10:18 NCR 2401		10:22 NCR 2850	*	Approve	04/18/96	*			11:04 NCR 238
21 NCAC 68 .0209	10:18 NCR 2401	10:22 NCR 2850	*	Approve	04/18/96	*				11:04 NCR 238
21 NCAC 68 .0210	10:18 NCR 2401	10:22 NCR 2850	*	Approve	04/18/96	*				11:04 NCR 238
21 NCAC 68 .0211	10:18 NCR 2401	10:22 NCR 2850	*	Approve	04/18/96	*				11:04 NCR 238
21 NCAC 68 .0212	10:18 NCR 2401	10:22 NCR 2850	*	Approve	04/18/96	*				11:04 NCR 238
21 NCAC 68 .0213	10:18 NCR 2401	10:22 NCR 2850	*	Approve	04/18/96	*				11:04 NCR 238
21 NCAC 68 .0401	10:18 NCR 2401	10:22 NCR 2850	*	Approve	04/18/96	*				11:04 NCR 238
21 NCAC 68 .0402	10:18 NCR 2401	10:22 NCR 2850	*	Approve	04/18/96	*				11:04 NCR 238
21 NCAC 68 .0403	10:18 NCR 2401	10:22 NCR 2850	*	Approve	04/18/96	*				11:04 NCR 238
21 NCAC 68 .0404	10:18 NCR 2401	10:22 NCR 2850	*	Approve	04/18/96	*				11:04 NCR 238
21 NCAC 68 .0405	10:18 NCR 2401	10:22 NCR 2850	*	Approve	04/18/96	*				11:04 NCR 238
21 NCAC 68 .0406	10:18 NCR 2401	10:22 NCR 2850	*	Approve	04/18/96	*				11:04 NCR 238
21 NCAC 68 .0407	10:18 NCR 2401	10:22 NCR 2850	*	Approve	04/18/96	*				11:04 NCR 238
21 NCAC 68 .0701	10:18 NCR 2401	10:22 NCR 2850	*	Approve	04/18/96	*				11:04 NCR 238
21 NCAC 68 .0702	10:18 NCR 2401	10:22 NCR 2850	*	Approve	04/18/96	*				11:04 NCR 238
21 NCAC 68 .0703	10:18 NCR 2401	10:22 NCR 2850	*	Approve	04/18/96	*				11:04 NCR 238
21 NCAC 68 .0704	10:18 NCR 2401	10:22 NCR 2850	*	Approve	04/18/96	*				11:04 NCR 238
21 NCAC 68 .0705	10:18 NCR 2401	10:22 NCR 2850	*	Approve	04/18/96	*				11:04 NCR 238
21 NCAC 68 .0706	10:18 NCR 2401	10:22 NCR 2850	*	Approve	04/18/96	*				11:04 NCR 238
21 NCAC 68 .0707	10:18 NCR 2401	10:22 NCR 2850	*	Approve	04/18/96	*				11:04 NCR 238
21 NCAC 68 .0708	10:18 NCR 2401	10:22 NCR 2850	*	Approve	04/18/96	*				11:04 NCR 238
21 NCAC 68 .0709	10:18 NCR 2401	10:22 NCR 2850	*	Approve	04/18/96	*				11:04 NCR 238
<b>TRANSPORTATION</b>										
19A NCAC 06B .0401	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B .0402	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B .0403	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B .0404	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B .0405	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				

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19A NCAC 06B .0406	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B .0407	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B .0408	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B .0409	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B .0410	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B .0411	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B .0412	10:23 NCR 2957		11:05 NCR 279	S	Object	08/15/96	*			
					Approve	09/19/96				
19A NCAC 06B .0413	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B .0414	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B .0415	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B .0416	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
19A NCAC 06B .0417	10:23 NCR 2957		11:05 NCR 279	S	Approve	08/15/96				
<b>Highways, Division of</b>										
19A NCAC 02D .0425					Approve	08/15/96				
19A NCAC 02D .1101	10:23 NCR 2957		11:05 NCR 274	*	Approve	08/15/96				
19A NCAC 02D .1102	10:23 NCR 2957		11:05 NCR 274	*	Object	08/15/96				
19A NCAC 02D .1103	10:23 NCR 2957		11:05 NCR 274	*	Approve	09/19/96				
19A NCAC 02D .1104	10:23 NCR 2957		11:05 NCR 274	*	Approve	08/15/96	*			
19A NCAC 02D .1105	10:23 NCR 2957		11:05 NCR 274	*	Approve	08/15/96	*			
19A NCAC 02D .1106	10:23 NCR 2957		11:05 NCR 274	*	Approve	08/15/96	*			
19A NCAC 02D .1107	10:23 NCR 2957		11:05 NCR 274	*	Approve	08/15/96				
19A NCAC 02D .1108	10:23 NCR 2957		11:05 NCR 274	*	Object	08/15/96	*			
19A NCAC 02D .1109	10:23 NCR 2957		11:05 NCR 274	*	Approve	08/15/96	*			
19A NCAC 02D .1110	10:23 NCR 2957		11:05 NCR 274	*	Approve	08/15/96	*			
19A NCAC 02D .1111	10:23 NCR 2957		11:05 NCR 274	*	Object	08/15/96	*			

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19A NCAC 02D.1112	10:23 NCR 2957		11:05 NCR 274	*	Approve	08/15/96				
<b>Motor Vehicles, Division of</b>										
19A NCAC 03E.0500	11:01 NCR 13		11:07 NCR 416	*	Approve	09/19/96	*			11:14 NCR 1156
19A NCAC 03E.0501	11:01 NCR 13		11:07 NCR 416	*	Approve	09/19/96	*			11:14 NCR 1156
19A NCAC 03E.0502	11:01 NCR 13		11:07 NCR 416	*	Approve	09/19/96	*			11:14 NCR 1156
19A NCAC 03E.0510	11:01 NCR 13		11:07 NCR 416	*	Approve	09/19/96	*			11:14 NCR 1156
19A NCAC 03E.0511	11:01 NCR 13		11:07 NCR 416	*	Approve	10/17/96	*			
19A NCAC 03E.0512	11:01 NCR 13		11:07 NCR 416	*	Approve	09/19/96	*			11:14 NCR 1156
19A NCAC 03E.0513	11:01 NCR 13		11:07 NCR 416	*	Approve	09/19/96	*			11:14 NCR 1156
19A NCAC 03E.0514	11:01 NCR 13		11:07 NCR 416	*	Approve	09/19/96	*			11:14 NCR 1156
19A NCAC 03E.0515	11:01 NCR 13		11:07 NCR 416	*	Approve	09/19/96	*			11:14 NCR 1156
19A NCAC 03E.0518	11:01 NCR 13		11:07 NCR 416	*	Approve	09/19/96	*			11:14 NCR 1156
19A NCAC 03E.0519	11:01 NCR 13		11:07 NCR 416	*	Approve	09/19/96	*			11:14 NCR 1156
19A NCAC 03E.0522	11:01 NCR 13		11:07 NCR 416	*	Approve	09/19/96	*			11:14 NCR 1156
19A NCAC 03J.0101	11:11 NCR 882									
19A NCAC 03J.0201	11:11 NCR 882									
19A NCAC 03J.0306	11:11 NCR 882									
19A NCAC 03J.0307	11:11 NCR 882									
19A NCAC 03J.0601	11:11 NCR 882									

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